

# DRIVER EDUCATION AND SAFETY

Administrative Rules of the Texas Department of Licensing and Regulation  
16 Texas Administrative Code, Chapter 84  
(Effective July 1, 2018)

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## **Subchapter A. General Provisions.**

### **84.1. Authority.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

This chapter is promulgated under Texas Occupations Code, Chapter 51, Texas Education Code, Chapter 1001, and 29; and Texas Transportation Code, Chapter 521.

### **84.2. Definitions.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400; amended effective March 15, 2018, 43 TexReg 1431)*

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) ADE-1317--The driver education certificate of completion used for certifying completion of a driver education course exclusively for adults. This term encompasses all parts of a certificate of completion with the same control number issued for an approved driver education course. It is a government record.
- (2) Advertising--Any affirmative act, whether written or oral, designed to call public attention to a school and/or course in order to evoke a desire to patronize that school or course. This includes Meta tags and search engines.
- (3) Alternative method of instruction--A method of instruction for the minor and adult driver education course that does not require students to be present in a classroom.
- (4) Branch school--A licensed driver education school that has the same ownership and name as a licensed primary driver education school.
- (5) Certificate of program completion--serially numbered certificates that are printed, administered, and supplied by the course provider that have been approved by the department as part of the drug and alcohol awareness program.
- (6) Change of ownership of a school or course provider--A change in the control of the school. The control of a school is considered to have changed:
  - (A) in the case of ownership by an individual, when more than 50% of the school or course provider has been sold or transferred;
  - (B) in the case of ownership by a partnership or a corporation, when more than 50% of the school or course provider, or of the owning partnership or corporation has been sold or transferred; or
  - (C) when the board of directors, officers, shareholders, or similar governing body has been changed to such an extent as to significantly alter the management and control of the school or course provider.
- (7) Clock hour:
  - (A) Driver Education School Clock hour--55 minutes of instruction time in a 60-minute period for a driver education course. This includes classroom and in-car instruction time.
  - (B) Driving Safety School and Drug and Alcohol Awareness Program Clock Hour--50 minutes of instruction in a 60-minute period for a driving safety course.
- (8) Code--Refers to Texas Education Code, Chapter 1001.

- (9) Contract site--An accredited public or private secondary school approved as a location for a driver education course of a licensed school. A driver training school may conduct a driver training course at a public or private school for students of the public or private school as provided by an agreement with the public or private school. The course is subject to any law applicable to a course conducted at the main business location of the driver training school.
- (10) Criminal history record information--In accordance with the Texas Government Code, §411.082(2), information collected about a person by the Texas Department of Public Safety, a law enforcement or a criminal justice agency, or a private entity governed by the Fair Credit Reporting Act (15 United States Code, §1681 et seq.) that consists of identifiable descriptions and notations of arrests, detentions, indictments, and other formal criminal charges and their dispositions.
- (11) DE-964--The driver education certificate of completion used for certifying completion of an approved minor and adult driver education course. This term encompasses all parts of a certificate of completion with the same control number issued for an approved driver education course. It is a government record.
- (12) Educational objectives--The goal to promote respect for and encourage observance of traffic laws and traffic safety responsibilities of driver education and citizens; reduce traffic violations; reduce traffic-related injuries, deaths, and economic losses; and motivate development of traffic-related competencies through education, including, but not limited to, Texas traffic laws, risk management, driver attitudes, courtesy skills, and evasive driving techniques.
- (13) Inactive course--a driving safety or specialized driving safety course for which no uniform certificates of completion or course completion certificate numbers have been purchased for 36 months or longer.
- (14) Instructor trainer--A driving safety instructor trainer (DSIT) or specialized driving safety instructor trainer (SDSIT) who has been trained to prepare instructors to give instruction in a specified curriculum. A DSIT or SDSIT supervises the student instructor trainee during their practical teaching sessions, overseeing their presentation of the course. The DSIT or SDSIT may provide feedback and guidance to the trainee concerning their practical teaching, but would not provide the training of techniques of instruction and in-depth familiarization with course material to the trainee during the Instructor Development Course.
- (15) National criminal history record information--Criminal history record information obtained from the Federal Bureau of Investigation under Texas Government Code, §411.087, based on fingerprint identification information.
- (16) New Course--A driving safety or specialized driving safety course is considered new when it has not been approved by the department to be offered previously, or has been approved by the department and become inactive; or the content, lessons, or delivery of the course has been changed to a degree that a new application is requested and a complete review of the application and course presentation is necessary to determine compliance.
- (17) Personal validation question--A question designed to establish the identity of the student by requiring an answer related to the student's personal information such as a driver's license number, address, date of birth, or other similar information that is unique to the student.
- (18) Post program exam--an exam designed to measure the student's comprehension and knowledge of course material presented after the instruction is completed.
- (19) Pre-program exam--an exam given during the program introduction using questions drawn from material to be covered in the course to determine the level of drug and alcohol knowledge possessed by the student prior to receiving instruction.

- (20) Primary school--A licensed driver education main school that may have branch schools.
- (21) Public or private school--an accredited public or non-public secondary school.
- (22) Specialized driving safety course--a six-hour driving safety course that includes at least four hours of training intended to improve the student's knowledge, compliance with, and attitude toward the use of child passenger safety seats systems and the wearing of seat belt and other occupant restraint system.
- (23) Teacher of record--A licensed supervising driver education teacher or licensed driver education teacher employed at the school who is directly responsible for the classroom instructional phase provided by a teaching assistant full or supervising teaching assistant full.
- (24) Uniform certificate of course completion--A document with a serial number purchased from the department that is printed, administered and supplied by course providers or primary consignees for issuance to students who successfully complete an approved driving safety or specialized driving safety course and that meets the requirements of Texas Transportation Code, chapter 543, and Texas Code of Criminal Procedure, Article 45.051 or 45.0511. This term encompasses all parts of an original or duplicate uniform certificate of course completion.
- (25) Validation question--A question designed to establish the student's participation in a course or program and comprehension of the materials by requiring the student to answer a question regarding a fact or concept taught in the course or program.

#### **Subchapter B. Driver Training and Traffic Safety Advisory Committee.**

#### **84.30. Membership.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) The advisory committee consists of eleven members appointed for staggered six-year terms by the presiding officer of the commission, with the approval of the commission, as follows:
  - (1) one member representing a driver education school that offers a traditional classroom course and in-car training;
  - (2) one member representing a driver education school that offers a traditional classroom course, alternative methods of instruction, or in-car training;
  - (3) one member representing a driving safety school offering a traditional classroom course or providing an alternative method of instruction;
  - (4) one member representing a driving safety course provider approved for a traditional classroom course and for an alternative method of instruction;
  - (5) one member representing a driving safety course provider approved for a traditional classroom course or for an alternative method of instruction;
  - (6) one licensed instructor;
  - (7) one representative of the Department of Public Safety;
  - (8) one member representing a drug and alcohol driving awareness program course provider;
  - (9) one member representing a parent-taught course provider; and
  - (10) two members representing the public.

- (b) Chapter 2110, Government Code, does not apply to the advisory committee.

**84.31. Duties.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

The advisory committee shall provide advice and recommendations to the department on rules, educational and technical matters relevant to the administration of the Act and this chapter.

**84.32. Terms; Vacancies.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) A member may not serve two consecutive full terms.
- (b) If a vacancy occurs during a term, the presiding officer of the commission, with the approval of the commission, shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.
- (c) A member of the advisory committee may be removed from the advisory committee as provided by Texas Occupations Code §51.209.
- (d) Members of the advisory committee may not receive compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory committee, subject to the General Appropriations Act.

**84.33. Officers.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) The presiding officer of the commission shall appoint the presiding officer of the advisory committee.
- (b) The presiding officer of the advisory committee may vote on any matter before the advisory committee.

**84.34. Meetings.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

The committee shall meet at the call of the presiding officer of the commission.

**Subchapter C. Driver Education Schools and Instructors.**

**84.40. Driver Education School Licensure Requirements.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Application. An application for a school license for a primary or branch driver education school shall be made on forms prescribed by the department. A license application is valid for one year from the date it is filed with the department.
- (b) Bond requirements. In the case of an original or a change of owner application, an original bond or approved alternate form of security shall be provided. In the case of a renewal application, an original bond or approved alternate form of security or a continuation agreement for the approved bond currently on file or continuation of an approved alternate form of security shall be submitted. The bond or the continuation agreement shall be executed on the form provided by the department. Approved alternate forms of security shall adhere to the following guidelines.
  - (1) An irrevocable letter of credit. The letter shall be in the name of the owner of the school. The letter shall specify the amount of credit extended, which shall be equivalent to the coverage required for a corporate surety bond, and the purpose of the credit. The letter shall contain the signature of an appropriate bank representative. The bank and the letter shall be approved by the department.
  - (2) A cash deposit. An irrevocable account shall be established by the school owner in the name of the department to be drawn upon as needed to pay student refunds as needed if the school closes owing refunds. The account shall be equivalent to the coverage required for a corporate surety

bond. The bank and the terms of the account shall be approved by the department. The department shall keep records of deposits and/or withdrawals on the account.

(c) Verification of ownership.

- (1) In the case of an original or change of owner application for a primary school, the owner of the school must provide verification of ownership.
- (2) In the case of an original or change of owner application for a branch school, the owner shall submit an application on forms prescribed by the department.

(d) Purchase of a driver education school.

- (1) A person, partnership, or corporation, purchasing a licensed driver education school shall obtain an original license or branch school license as applicable.
- (2) The purchaser shall assume all refund liabilities incurred by the seller or any former owner as well as the liabilities, duties, and obligations under the enrollment contracts between the students and the seller, or any former owner before the transfer of ownership.

(e) New location.

- (1) The department must be notified in writing of any change of address at least fifteen (15) working days before the move.
- (2) The school must submit the appropriate change of address fee prior to the actual move.
- (3) If a student is not willing to change locations or is prevented from completing the training at the new location, a pro-rata refund (without deducting any administrative expense) must be made to the student.

(f) Renewal of driver education school license. A complete application for the renewal of a license for a primary or branch driver education school shall be submitted before the expiration of the license and shall include the following:

- (1) completed application for renewal;
- (2) renewal fee;
- (3) a current list of instructors employed at the school if changes have occurred;
- (4) executed bond or executed continuation agreement for the bond currently approved by, and on file with, the department or an approved alternate form of security;
- (5) a current list of all motor vehicles used for instruction if changes have occurred; and
- (6) documentation showing that all vehicles used for instruction are properly insured.

(g) Denial, revocation, or conditional license. The authority to operate a branch school ceases if a primary driver education school license is denied or revoked. The operation of a branch school license may be subject to any conditions placed on the continued operation of the primary driver education school. A driver education school license for a branch school may be denied, revoked, or conditioned separately from the license for the primary school.

(h) School closure.

- (1) The school owner shall notify the department at least fifteen (15) business days before the anticipated school closure. In addition, the school owner shall provide written notice of the actual discontinuance of the operation the day of cessation of classes. A school shall make all records available for review to the department upon request.
- (2) The department may declare a school to be closed:
  - (A) when the school does not have the facilities, vehicles, instructors, or equipment to provide training pursuant to this subchapter;
  - (B) when the school has stopped conducting classes and has failed to fulfill contractual obligations to its students; or
  - (C) when the school owner allows the school license to expire.
- (3) If a branch school closes and a student is prevented from completing the training at the primary location, a pro-rata refund (without deducting any administrative expense) must be made to the student.
- (i) Branch schools shall adopt, use, and conduct business with the same name as the primary school.
- (j) A school shall not, by advertisement or otherwise, state or imply that a driver's license, permit, or DE-964 is guaranteed or assured to any student or individual who will take or complete any instruction or enroll or otherwise receive instruction in any driver education school.
- (k) A school shall not advertise without including the school name or the school number exactly as it appears on the driver education school license.
- (l) Contract site. A school shall receive approval from the department prior to conducting a class at a contract site, and approval may be granted by the department upon review of the agreement made between the licensed driver education school and the contract site. The course shall be subject to the same rules that apply at the licensed driver education school, including periodic inspections by department representatives. An on-site inspection is not required prior to approval of the site.

**84.41. Driver Education School Responsibility.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400; amended effective March 15, 2018, 43 TexReg 1431)*

- (a) Each driver education school must:
  - (1) Maintain a current mailing address, telephone number, and e-mail address (if applicable) with the department.
  - (2) ensure that each individual permitted to give classroom instruction or in-car instruction at the school or classroom location has a valid current driver education instructor's license with the proper endorsement issued by the department.
  - (3) provide instruction or allow instruction to be provided only in courses that are currently on the school's list of approved courses;
  - (4) complete, issue, or validate a DE-964 or ADE-1317 only to a person who has successfully completed the entire portion of the course for which the DE-964 or ADE-1317 is being issued;
  - (5) authorize, approve, or conduct instruction in a motor vehicle that meets the requirements stated in §84.42 (relating to Motor Vehicles); and
  - (6) ensure that no instructor provides more than 10-hours of behind-the-wheel instruction per day.



- (b) Except as provided in subsection (a), an instructor-trainee may engage in practice teaching lessons necessary for the purpose of licensing in an approved location under the direction and in the presence of a licensed instructor.
- (c) Each driver education school owner-operator or employee that purchases driver education certificate numbers from the department must:
  - (1) develop and maintain a means to ensure the security and integrity of student information, especially financial and personal information, in transit and at rest;
  - (2) develop and maintain a means to ensure the privacy of student data, including personal and financial data, and make the corporate privacy policy available to all course students;
  - (3) develop and maintain a department-approved method for issuing original and duplicate driver education certificates that, to the greatest extent possible, prevents the unauthorized production or misuse of the certificates; and
  - (4) ensure that the front of each driver education certificate contains the department's complaint contact information and current department telephone number in a font that is visibly recognizable.

**84.42. Motor Vehicles.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

All in-car instruction of students in driver education schools shall be conducted in motor vehicles owned or leased by the owner of the driver education school in the name of the driver education school. If the student is disabled, the school may use a motor vehicle that is owned by the student or student's parent that is equipped with special vehicle controls. All school motor vehicles and vehicles for students with physical disabilities that are used to demonstrate or practice driving lessons shall:

- (1) be properly registered and inspected by the Texas Department of Motor Vehicles;
- (2) be equipped with dual control brake pedals so that there is a foot brake located within easy reach of the instructor that is capable of bringing the vehicle to a stop and otherwise be equipped in accordance with Texas motor vehicle laws;
- (3) be equipped with an extra inside rearview mirror on the instructor's side and an outside rearview mirror on both sides. The visor mirror shall not substitute for the instructor's inside rearview mirror; and
- (4) be insured by a company authorized to do business in Texas with a continuous liability business insurance policy in the amount specified in Transportation Code Chapter 601, and include coverage for uninsured or underinsured motorists.

**84.43. Driver Education Certificates.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) The DE-964 and ADE-1317 shall be issued only to primary driver education schools. The primary driver education school shall maintain a record reconciling all DE-964s and ADE-1317s that are distributed by the primary driver education school to branch driver education schools and contract sites.
- (b) School owners shall be responsible for the DE-964 and ADE-1317 in accordance with this subsection.
  - (1) A licensed driver education school, exempt driver education school or parent taught driver education course provider may request the serially numbered DE-964s and ADE-1317s by submitting an order form prescribed by the department stating the number of DE-964s and ADE-1317s to be purchased and include payment of all appropriate fees. A mailed or faxed order form

shall have the signature of the driver education school owner or authorized representative. Signature is not required for orders placed through the online system.

- (2) A driver education school or parent taught driver education course provider shall not transfer unassigned DE-964s and ADE-1317s to a school/provider other than the school/provider for which the certificates were ordered from the department without written approval from the department.
  - (3) The driver education school owner or authorized representative shall maintain effective protective measures to ensure that unissued DE-964s and ADE-1317s are secure. The driver education school owner or authorized representative shall report all unaccounted DE-964s and ADE-1317s to the department within fifteen (15) working days of the discovery of the incident. In addition, the driver education school shall be responsible for conducting an investigation to determine the circumstances surrounding the unaccounted DE-964s and ADE-1317s. A report of the findings of the investigation, including preventative measures for recurrence, shall be submitted to the department within thirty (30) days of the discovery.
  - (4) The driver education school owner or their designee shall return unissued DE-964 and ADE-1317 certificates to the department within thirty (30) days from the date the school discontinues the driver education program, unless otherwise notified.
- (c) If a driver education school or parent taught driver education course provider issues a duplicate DE-964 or ADE-1317, the duplicate shall indicate the control number of the original DE-964 or ADE-1317.
- (d) A driver education school that purchases driver education certificate numbers shall provide for the following:
- (1) The DE-964 and ADE-1317 driver education certificate numbers shall only be issued to primary driver education schools. The primary driver education school shall maintain a record reconciling all DE-964 and ADE-1317 driver education certificate numbers that are distributed to branch driver education schools and contract sites.
  - (2) The school shall implement and maintain a policy which effectively ensures protective measures are in use at all times for securing original and duplicate driver education certificates numbers. The records and unissued or unnumbered original and duplicate driver education certificates shall be readily available for review by representatives of the department.
  - (3) The school shall maintain electronic files with data pertaining to all driver education certificate numbers purchased from the department. The school shall make available to the department upon request an ascending numerical accounting record of the numbered driver education certificates issued. The school shall ensure security of the data.
  - (4) The school shall ensure that effective measures are taken to preclude lost data and that a system is in place to recreate electronic data for all driver education certificate numbers, whether used or not used, and all certificates that have been issued.
  - (5) Schools shall issue driver education certificates using a block of identifying serial numbers purchased from the department only to students who have successfully completed all elements of the school's approved driver education course taught by department licensed instructors in department approved locations as indicated on the student contract.
  - (6) Schools shall report all unaccounted original and duplicate driver education numbers or unissued or duplicate certificates to the department within five (5) working days of the discovery of the incident. In addition, the school shall be responsible for conducting an investigation to determine the circumstances surrounding the unaccounted items. A report of the findings of the investigation, including preventative measures for recurrence, shall be submitted for approval to the department

within thirty (30) days of the discovery.

- (7) Each unaccounted or missing original or duplicate course driver education completion certificate number or blank or unissued original or duplicate driver education certificate may be considered a separate violation. This may include lost, stolen, or otherwise unaccounted original or duplicate driver education certificate numbers or blanks or unissued original or duplicate driver education certificates.
- (8) Schools shall not transfer driver education certificate numbers to another school.
- (9) Schools shall sequentially number original driver education certificates from the block of numbers purchased from the department.
- (10) When a duplicate driver education certificate is issued by a school, the duplicate certificate shall bear a serial number from the block of numbers purchased from the department by the school. The duplicate driver education certificate shall clearly indicate the number of both the duplicate and the original serial number of the certificate being replaced.
- (11) The driver education school owner or their designee shall return unissued DE-964 and ADE-1317 certificate numbers to the department within thirty (30) days from the date the school discontinues the driver education program, unless otherwise notified.

**84.44. Driver Education Instructor License.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400; amended effective March 15, 2018, 43 TexReg 1431)*

- (a) Application for licensing as a driver education instructor must be made on forms prescribed by the department. A person applying for an original driver education instructor license must:
  - (1) have a high school diploma or equivalent;
  - (2) hold a valid class A, B, C, or CDL driver's license, other than a learner license or provisional license, for the preceding three years, that has not been revoked or suspended in the preceding three years.
  - (3) submit a completed application as prescribed by the department;
  - (4) submit the instructor licensing fees;
  - (5) submit a national criminal history record information review fee;
  - (6) submit documentation showing that all applicable educational requirements have been met; and
  - (7) provide fingerprints to the Texas Department of Public Safety (DPS) through the Fingerprint Application Service of Texas (FAST) or any other method required by the DPS.
- (b) Driver education instructor license endorsement qualifications and responsibilities:
  - (1) Supervising driver education teacher:
    - (A) must have a current, valid Texas teacher's certificate and an official transcript indicating completion of 15 semester hours of driver and traffic safety education from an accredited college or university or evidence of completion of a department-approved instructor development course that is equivalent to 15 semester hours. Completion of course work in an approved alternative certification program may suffice for all or part of the 15 semester hours of driver and traffic safety education if the department determines that the course is equivalent;

- (B) may perform instruction and administration of the classroom and in-car phases of driver education as prescribed in the Program of Organized instruction to minors and adults;
  - (C) may perform instruction of a department-approved driver education instructor development course;
  - (D) may serve as a teacher of record.
- (2) Driver education teacher:
- (A) must have a current, valid Texas teacher's certificate and an official transcript indicating completion of 9 semester hours of driver and traffic safety education from an accredited college or university or evidence of completion of a department-approved instructor development course that is equivalent to 9 semester hours. Completion of course work in an approved alternative certification program may suffice for all or part of the 9 semester hours of driver and traffic safety education if the department determines that the course is equivalent;
  - (B) may perform instruction and administration of the classroom and in-car phases of driver education as prescribed in the Program of Organized instruction to minors and adults;
  - (C) may serve as a teacher of record.
- (3) Teaching assistant:
- (A) must have a valid teaching assistant license issued by the department that indicates approval for in-car instruction only;
  - (B) must have an official transcript indicating completion of 6 semester hours of driver and traffic safety education from an accredited college or university or evidence of completion of a department approved instructor development course that is equivalent to 6 semester hours. Completion of course work in an approved alternative certification program may suffice for all or part of the 6 semester hours of driver and traffic safety education if the department determines that the course is equivalent;
  - (C) may only perform in-car instruction.
- (4) Teaching assistant-full:
- (A) must have a valid teaching assistant license issued by the department that indicates approval for all phases of laboratory instruction and instructional assistance in the classroom;
  - (B) must have an official transcript indicating completion of 9 semester hours of driver and traffic safety education from an accredited college or university or evidence of completion of a department approved instructor development course that is equivalent to 9 semester hours. Completion of course work in an approved alternative certification program may suffice for all or part of the 9 semester hours of driver and traffic safety education if the department determines that the course is equivalent;
  - (C) may perform all phases of in-car instruction and may assist certified teachers in the classroom phase of minor and adult driver education. All classroom instruction provided by a teaching assistant-full shall be endorsed by the teacher of record. In emergency situations, the school owner may request prior approval from the department to endorse classroom instruction records provided by a teaching assistant-full.

- (5) Supervising teaching assistant-full:
  - (A) must have a valid teaching assistant-full license issued by the department that indicates approval for all phases of laboratory instruction and instructional assistance in the classroom;
  - (B) must have an official transcript indicating completion of 15 semester hours of driver and traffic safety education from an accredited college or university or evidence of completion of a department-approved instructor development course that is equivalent to 15 semester hours. Completion of course work in an approved alternative certification program may suffice for all or part of the 15 semester hours of driver and traffic safety education if the department determines that the course is equivalent.
  - (C) may teach all phases of in-car instruction;
  - (D) may assist in the classroom phase of minor and adult driver education, however, any classroom instruction provided must be endorsed by the teacher of record
  - (E) may perform instruction in a department approved driver education instructor development course.
- (6) Rehabilitative driver education in-car instructor.
  - (A) must have a valid driver education teaching assistant certificate issued by the department or evidence of completion of an approved driver education program for certification as a teaching assistant that is equivalent to at least six semester hours;
  - (B) must have evidence of employment from a specific hospital or approved community rehabilitation program.
  - (C) The endorsement will be valid while the instructor is employed by or under contract with the specified hospital or approved community rehabilitation program.
- (c) An application for renewal of an instructor license shall be submitted on forms prescribed by the department. A complete application shall include the following:
  - (1) annual licensing fee; and
  - (2) evidence of completing continuing education during the individual license renewal period.
- (d) Continuing education requirements include the following.
  - (1) Driver education instructors shall participate in and provide evidence of completion of at least one of the following to obtain credit for continuing education. Credit will be given only for courses that were completed during the appropriate licensing period.
    - (A) Instructors may participate in a department-approved driver education continuing education course. Evidence of completion of continuing education shall be provided for each instructor during the individual license renewal period on department forms or the equivalent. The instructor receiving instruction and the facilitator, presenter, or the school owner providing the instruction shall sign the form.
    - (B) Credit may also may be given for any of the following:
      - (i) successful completion of a postsecondary course that pertains to instruction

techniques or instruction related to driver education as provided by an accredited college or university. Evidence of completion shall be a copy of official school documentation indicating a passing grade.

- (ii) successful completion of national, state, or regionally sponsored in-service workshops, seminars, or conferences. These programs must pertain to subject matters that relate to the practice of driver education or teaching techniques.
  - (iii) successful completion of an approved six-hour driving safety, specialized, or drug and alcohol driving awareness course once every three years if the licensee is not endorsed or has not been endorsed as an instructor in that program for a period of one year previous to class attendance, or
  - (iv) successful completion of an approved continuing education course provided by a licensed driver education school.
- (2) Carryover credit of continuing education hours is not permitted.
- (3) A licensee may not receive credit for completing the same course more than once every three years.
- (4) A licensed driver education instructor who teaches an approved driver education continuing education course may receive credit for attending continuing education.
- (5) A licensed driver education instructor will not receive credit for driver education continuing education by completing or teaching a driving safety continuing education course approved for driving safety only or by completing a driver education course exclusively for adults.
- (e) All driver education instructor license endorsement changes shall require the following:
  - (1) written documentation showing all applicable educational requirements have been met to justify endorsement changes; and
  - (2) the annual licensing fee.
- (f) All other license change requests, including duplicate instructor licenses or name changes, shall be made in writing and shall include payment of the duplicate instructor license fee.
- (g) An instructor must notify the department of a change of address in writing within thirty (30) days of the change. Address changes do not require a fee.

**84.45. Student Progress.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

Appropriate standards shall be implemented to ascertain the progress of the students.

- (1) Progress standards shall meet the requirements of the Program of Organized Instruction for Driver Education and Traffic Safety approved by the department.
- (2) Each primary school shall submit to the department for approval procedures to ensure that each student who attends the primary school and all branch schools demonstrates an acceptable level of mastery of the Program of Organized Instruction for Driver Education and Traffic Safety. Mastery is not related to passing the written examination for a driver's license administered by the Texas Department of Public Safety. Successful completion and mastery are prerequisites to awarding a grade of 70% or above.
- (3) One or more of the following methods shall determine evidence of successful completion and

mastery:

- (A) unit tests;
  - (B) written assignments;
  - (C) skills performance checklist; and
  - (D) comprehensive examinations of knowledge and skills.
- (4) The instructor must certify that each student successfully mastered all course content before the student is awarded successful completion of a driver education program.

**84.46. Attendance and Makeup.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Written or electronic records of student attendance shall be prepared daily to document the attendance and absence of the students. A student must make up any time missed. Electronic signatures shall comply with Texas Business and Commerce Code, Chapter 322.
- (b) Schools are allowed five minutes of break per instructional hour.
- (c) Driver education training provided by the school is limited to five hours per day. Classroom instruction shall not exceed two hours per day, excluding makeup work. In-car instruction provided by the school shall not exceed three hours per day as follows:
  - (1) three hours or less of in-car training; however, behind-the-wheel instruction is limited to one hour per day, except as provided in subsection (d); or
  - (2) three hours or less of simulation instruction; or
  - (3) three hours or less of multicar range instruction; or
  - (4) any combination of the methods delineated in this subsection that does not exceed three hours per day.
- (d) A 2-hour increment of behind-the-wheel instruction may be offered once during the behind-the-wheel instruction for each student and shall include 10 minutes of instructional break after 55 minutes of instruction as identified in §84.500 (relating to Courses of Instruction for Driver Education Schools).
- (e) A student must complete the hours of instruction for the required classroom and in-car phases of the minor and adult driver education course, including any makeup lessons, within the timeline specified in the original student enrollment contract.
- (f) Schools shall submit a makeup policy to the department for approval. All absences are subject to the attendance policy regardless of whether the student attends makeup lessons. Students may be allowed to complete up to ten hours of classroom makeup work assignments outside of regularly scheduled classroom instruction. Schools shall not initiate nor encourage absences. Makeup policies shall adhere to the following requirements:
  - (1) For a policy that allows a student to attend a missed lesson on the same date or at a later date at a regularly scheduled class, the class shall be engaged in the same lesson the student missed previously.
  - (2) For a policy that allows a student to perform an individual makeup lesson, a sample of each makeup lesson, clearly labeled as "makeup for the driver education course," shall be available for review by the department at the school. Each lesson shall be clearly identified as a makeup lesson

and identified as to the units of instruction to be covered. Evidence of makeup completed outside of regularly scheduled classroom instruction shall be placed in the student file.

- (g) A school may allow a student to attend an alternative class on the same calendar day if the sequence of instruction will be maintained by the identical lesson being offered. The student instruction record shall reflect the time of day the alternative class was attended. A student selecting alternative scheduling shall not be considered absent.
- (h) Except as provided in subsection (f), the enrollment of students who do not complete all required instructional hours within the timelines specified in the original student enrollment contract will be terminated.
- (i) Variances to the timelines for completion of the driver education instruction stated in the original student enrollment contract may be made at the discretion of the school owner and must be agreed to in writing by the parent or guardian.

**84.47. Student Conduct Policy.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

A statement regarding the following shall be provided to the parent or guardian signing the contract:

- (1) conditions for dismissal; and
- (2) conditions for reentry of students.

**84.48. Accommodations for Deaf or Hard of Hearing Students.** *(New Section adopted effective July 1, 2018, 43 TexReg 3875)*

- (a) Consistent with the requirements of the Americans With Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), a Driver Education School must make reasonable accommodations and provide aids and services when, providing the classroom portion of a driver education course, that are necessary to ensure that a student who is deaf or hard of hearing may fully participate in the course.
- (b) As part of the original or renewal application to obtain a driver education school license, the applicant must provide the school's plan for complying with §84.48(a).
- (c) A school will be in compliance with §84.48, if the school utilizes the department's online driver education course described in §1001.059 of the Code.

**Subchapter D. Parent Taught Driver Education.**

**84.50. Parent Taught Driver Education Program Requirements.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Prior to teaching a department- approved parent taught driver education course, a parent or other individual authorized under §1001.112 of the Code, must submit a completed Request for Parent Taught Driver Education Program Guide form with a non-refundable fee to the department.
- (b) After receiving the Parent Taught Driver Education Program Guide, the instructor must obtain one of the department approved parent taught driver education courses to fulfill program requirements.
- (c) The parent taught driver education course provider will provide the appropriate portion of a control-numbered DE-964 only to a person who has completed the objectives found in Module One: Traffic Laws or who has successfully completed the entire portion of the course for which the DE-964 is being issued.
- (d) The program includes both classroom and in-car instruction. Classroom instruction is limited to two hours per day and in-car instruction is limited to two hours per day.



- (e) The parent or other individual authorized under §1001.112 of the Code, may teach both or utilize a licensed or public driver education school for either phase.
- (f) The fourteen (14) hours of in-car instruction must be taught under one program; either parent taught or a licensed or public driver education school. All previous driver education hours must be repeated if the method of instruction changes prior to completion of either phase.
- (g) The remaining hours of classroom following Module One: Traffic Laws, must be taught under one program, either parent taught or a licensed or public driver education school.
- (h) The additional thirty (30) hours of behind-the-wheel practice must be completed in the presence of an adult who meets the requirements of Texas Transportation Code, §521.222(d)(2).
- (i) A student may apply to the Department of Public Safety for a learner license after completion of the objectives found in Module One: Traffic Laws.
- (j) Behind-the-wheel driver education instruction may be conducted in any vehicle that is legally operated with a Class C driver license on a Texas highway.
- (k) Behind-the-wheel driver education instruction may begin after the student receives a learner license. The required curriculum that must be followed includes: minimum of 44 hours that includes: 7 hours behind the wheel instruction in the presence of a parent or other individual authorized under §1001.112 of the Code; 7 hours of in-car observation in the presence of a parent or other individual authorized under §1001.112 of the Code; and 30 hours of behind the wheel instruction, including at least 10 hours at night, in the presence of an adult who meets the requirements of Texas Transportation Code, §521.222(d)(2).

**84.51. Parent Taught Submission of Course for Department Approval.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400; amended effective March 15, 2018, 43 TexReg 1431; amended effective July 1, 2018, 43 TexReg 3875)*

- (a) If the curriculum and all materials meet or exceed the minimum standards set forth in §1001.112 of the Code, the department will approve the course. No more than 640 minutes of the required hours of classroom instruction delivered via multimedia may be counted.
- (b) Notification of approval or denial will be sent to the requesting entity. Deficiencies will be noted in cases of denial. Any substantive change in course curriculum or materials will require submission for approval according to subsection (a).
- (c) A written request is required within thirty (30) days if there is any change relating to an approved course, including contact information, company name, and course titles. Updated information will be included as soon as practical.
- (d) The department will retain submitted materials according to the department's retention schedule.
- (e) The department has authority to require course re-approval due to changes in parent taught driver education curriculum requirements, state law, or administrative rules. The department will notify the parent taught driver education course provider when re-approval is required. The course provider will have ninety (90) days from the date of notification to submit the requested information. Failure to adequately respond within the required time will result in cancellation of the course approval. The department will review the course material and make a determination as to adoption in a timely manner.
- (f) A parent taught driver education course submitted for department review may be denied upon finding:
  - (1) that the course does not meet the standards required under §1001.112 of the Code; or
  - (2) the materials used were not approved by the department.

- (g) A notice of denial will be sent to requesting entity. The requesting entity will have ninety (90) days to correct the noted deficiencies. If the requesting entity fails to meet approval criteria, the course will be denied. If a course is denied by the department, the requesting entity must wait thirty (30) days before submitting a new parent taught driver education course for approval by the department.

**84.52. Cancellation of Department Approval.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) A department-approved parent taught driver education course may have its approval cancelled upon a finding:
  - (1) That the course does not meet the standards required under §1001.212 of the Code, or
  - (2) The materials used were not approved by the department.
- (b) Prior to cancellation, the department will allow the parent taught driver education course provider ninety (90) days from the date of notification the opportunity to correct the noted deficiencies in the curriculum and remove the non-approved material.
  - (1) Failure to adequately respond within the required time will result in cancellation of the course.
  - (2) If the parent taught driver education course is cancelled by the department, all course information will be removed from the Parent Taught Driver Education Program Guide and the department's website immediately.
  - (3) If a parent taught driver education course is cancelled by the department, the entity must wait thirty (30) days before submitting a new Parent Taught Driver Education Course for approval by the department.

**Subchapter E. Driving Safety Schools, Course Providers and Instructors.**

**84.60. Driving Safety School Licensure Requirements.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Application for a driving safety school. An application for a license for a driving safety school shall be made on forms prescribed by the department and submitted to the department. The application must:
  - (1) include individual requests for approval for each multiple classroom of the school. The applications shall be made on forms provided by the department. The driving safety school shall receive department approval for each location prior to advertising or offering a driving safety course at the location; and
  - (2) include verification from the licensed course provider that the school is authorized to provide the approved driving safety or specialized driving safety course and that the school will operate in compliance with all course provider policies and procedures.
- (b) Verification of Ownership of a Driving Safety School. In the case of an original or change of owner application for a driving safety school, the owner of the school shall provide verification of ownership.
- (c) Purchase of driving safety school.
  - (1) A person or persons purchasing a licensed driving safety school shall obtain an original license.
  - (2) The contract or any instrument transferring the ownership of the driving safety school shall include the following statements.
    - (A) The purchaser shall assume all refund liabilities incurred by the seller or any former

owner before the transfer of ownership; and

- (B) The purchaser shall assume the liabilities, duties, and obligations under the enrollment contracts between the students and the seller, or any former owner.

(d) New location.

- (1) The owner of a driving safety school shall notify the department in writing of any change of address of a driving safety school at least fifteen (15) working days before the move.
- (2) The owner of the school must submit the appropriate fee and all required documents. A driving safety school license may be issued after the required documents are approved.

(e) A complete application for the renewal of a license for a driving safety school must include the following:

- (1) completed application form for renewal;
- (2) current list of instructors;
- (3) current list of classrooms;
- (4) annual renewal fee, if applicable; and
- (5) any other revision or evidence of which the school has been notified in writing that is necessary to bring the school's application for a renewal license to a current and accurate status.

(f) Denial, revocation, or conditional license. For schools approved to offer only one driving safety course, the authority to operate a driving safety school shall cease if the course provider license is denied or revoked or if the course provider removes all authorization to teach the course. The license of the driving safety school will remain valid for sixty (60) calendar days to allow the school owner to obtain approval to operate under a different course provider license. No instruction will be allowed until a new program has been secured to teach. At the end of the 60-day period, the school license shall be revoked unless the school will offer an approved course. A current driving safety school license shall not be renewed without an approved course.

(g) School closure.

- (1) A school shall forward all records to the course provider responsible for the records within fifteen (15) business days of closure.
- (2) The course provider shall provide the department with written notice of a school closure within five (5) business days after being notified of closure.
- (3) The department may declare a school to be closed:
  - (A) as of the last day of attendance when written notification is received by the department from the school owner or course provider stating that the school will close;
  - (B) when department staff determine by means of an on-site inspection that the school facility has been vacated without prior notification of change of address and without approval of future plans to continue to operate;
  - (C) when the school owner allows the school license to expire; or
  - (D) when the school does not have the facilities and equipment to operate pursuant to this subchapter.

**84.61. Driving Safety School and Course Provider Responsibilities.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Course providers must be located, or maintain a registered agent, in the State of Texas. All instruction in a driving safety or specialized driving safety course shall be performed in locations approved by the department and by department licensed instructors. However, a student instructor trainee may teach the 12 hours necessary for licensing in a department approved location under the direction and in the presence of a licensed driving safety or specialized driving safety instructor trainer who has been trained in the curriculum being instructed.
- (b) Each course provider or employee shall:
  - (1) ensure that instruction of the course is provided in schools currently approved to offer the course, and in the manner in which the course was approved;
  - (2) maintain a current mailing address with the department;
  - (3) ensure that the course is provided by persons who have a valid current instructor license with the proper endorsement issued by the department, except as provided in subsection (a);
  - (4) ensure that schools and instructors are provided with the most recent approved course materials and relevant data and information pertaining to the course within sixty (60) days of approval. Instructor training may be required and shall be addressed in the approval notice;
  - (5) ensure that applications for licenses or approvals are forwarded to the department within ten (10) days of receipt at the course provider facilities;
  - (6) ensure that instructor performance is monitored. A written plan describing how instructor performance will be monitored and evaluated shall be provided to the schools. The plan shall identify the criteria upon which the instructors will be evaluated, the procedure for evaluation, the frequency of evaluation (a minimum of once a year), and the corrective action to be taken when instructors do not meet the criteria established by the course provider. The instructor evaluation forms must be kept on file either at the course provider or school location for a period of one year;
  - (7) develop and maintain a means to ensure the security and integrity of student information, especially financial and personal information, in transit and at rest;
  - (8) develop and maintain a means to ensure the privacy of student data, including personal and financial data, and make the corporate privacy policy available to all course students;
  - (9) develop and maintain a department-approved method for printing and issuing original and duplicate uniform certificates of course completion that, to the greatest extent possible, prevents the unauthorized production or misuse of the certificates;
  - (10) report original and duplicate certificate data, by secure electronic transmission, to the department within thirty (30) days of issue using guidelines established and provided by the department. The issue date indicated on the certificate shall be the date the course provider mails the certificate to the student; and
  - (11) ensure that the front of each uniform certificate of course completion contains the department complaint contact information and current department telephone number in a font that is visibly recognizable.
- (c) Each driving safety school owner-operator or employee shall:
  - (1) ensure that each individual permitted to give instruction at the school or any classroom location

has a valid current instructor's license with the proper endorsement issued by the department, except as provided in subsection (a);

- (2) prohibit an instructor from giving instruction or prohibit a student from receiving instruction if that instructor or student exhibits any effects of being intoxicated or otherwise impaired;
- (3) provide instruction or allow instruction to be provided only in courses that are currently on the school's list of approved courses;
- (4) evaluate instructor performance in accordance with the course provider plan;
- (5) develop and maintain a means to ensure the security and integrity of student information, especially financial and personal information, in transit and at rest;
- (6) pay a fee to the course provider that is equal to the fee paid by the course provider to the department for course completion certificate numbers for original certificates provided for the students of that school within seven (7) calendar days of the date each student successfully completes the driving safety course.

**84.62. Course Provider License Requirements.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400; amended effective March 15, 2018, 43 TexReg 1431)*

- (a) Application for course provider. An application for a license for a course provider shall be made on forms prescribed by the department. An application from a course provider that is a primary consignee shall include evidence of permission from the course owner to operate as the primary consignee.
- (b) Bond requirements for course provider. In the case of an original or a change of owner application, an original bond shall be provided in the amount of \$10,000. In the case of a renewal application, an original bond or a continuation agreement for the approved bond currently on file shall be submitted. The bond or the continuation agreement shall be executed on the form prescribed by the department.
- (c) Course provider license. The course provider license shall indicate the name of the driving safety course for which approval is granted exactly as stated in the application for the course approval.
- (d) Verification of ownership for course provider. In the case of an original or change of owner application for a course provider, the owner of the course provider shall provide verification of ownership.
- (e) Adequate educational and experience qualifications. The course provider shall provide as part of the application sufficient documentation to support adequate educational and experience qualifications. Verifiable education and/or experience in administration or supervision shall be required. Adequate educational and experience qualifications have been satisfied if the course provider meets one of the following.
- (f) A new course provider shall submit evidence of a combined total of three years of driver and traffic safety education or experience and administrative/management experience; however, a minimum of six months in each shall be required.
- (g) Purchase of course provider.
  - (1) A person or persons purchasing a licensed course provider shall obtain an original license. The application for a new course provider that is a primary consignee shall include evidence of permission from the course owner to operate as the primary consignee.
  - (2) The contract or any instrument transferring the ownership of the course provider shall include the following statements:

- (A) The purchaser shall assume all refund liabilities incurred by the seller or any former owner before the transfer of ownership; and
  - (B) The purchaser shall assume the liabilities, duties, and obligations under the enrollment contracts between the students and the seller, or any former owner.
- (h) New location. The department shall be notified in writing of any change of address of a course provider at least fifteen (15) working days before the move. The appropriate fee and all documents must also be submitted.
- (i) Renewal of course provider license. A complete application for the renewal of a license for a course provider shall be submitted before the expiration of the license and shall include the following:
  - (1) completed application for renewal;
  - (2) annual renewal fee, if applicable;
  - (3) a new continuing education course; and
  - (4) executed bond or executed continuation agreement for the bond currently on file with the department.
- (j) Course provider closure. A course provider owner shall notify the department of the closure date of the course provider at least fifteen (15) business days before the closure. A course provider shall make all records and all used and unused uniform certificates of course completion and course completion certificate numbers available for review by the department within thirty (30) days of the date the course provider ceases operation.
- (k) Facility location. Course providers and all course provider facilities that process, deliver, or store curriculum materials, student records, or uniform certificates of course completion and certificate numbers to be used for Texas courses must be located within the United States.

**84.63. Uniform Certificate of Course Completion for Driving Safety or Specialized Driving Safety Course.**

*(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Course provider responsibilities. Course providers shall be responsible for original and duplicate uniform certificates of course completion in accordance with this subsection.
  - (1) The course provider of a driving safety or specialized driving safety course shall ensure that each instructor completes the verification of course completion document approved by the department. The verification of course completion document shall contain a statement to be signed by the instructor that states: "Under penalty of law, I attest to the fact that the student whose name and signature appear on this document has successfully completed the number of hours as required under Texas Education Code, Chapter 1001, and that any false information on this document will be used as evidence in a court of law and/or administrative proceeding." This verification of course completion document shall be returned to the course provider upon completion of each driving safety class and maintained for no less than three years.
  - (2) The course provider shall implement and maintain a policy which effectively ensures protective measures are in use at all times for securing original and duplicate uniform certificates of course completion and course completion certificate numbers. The records and unissued or unnumbered original and duplicate uniform certificates of course completion shall be readily available for review by representatives of the department.
  - (3) The course provider shall maintain electronic files with data pertaining to all course completion certificate numbers purchased from the department. The course provider shall make available to

the department upon request an ascending numerical accounting record of the numbered uniform certificates of completion issued. The course provider shall ensure security of the data.

- (4) The course provider shall ensure that effective measures are taken to preclude lost data and that a system is in place to recreate electronic data for all certificate numbers, whether used or not used, and all certificates that have been issued.
- (5) Course providers shall issue and mail uniform certificates of course completion only to students who have successfully completed all elements of the course provider's approved driving safety or specialized driving safety course taught by department-licensed instructors in department-approved locations as indicated on the verification of course completion document or student footprint.
- (6) Course providers shall ensure that adequate training is provided regarding course provider policies and updates on course provider policies to all driving safety schools and instructors offering their approved driving safety or specialized driving safety course.
- (7) Course providers shall report all unaccounted original and duplicate course completion certificate numbers or unissued certificates or duplicates to the department within five business days of the discovery of the incident. In addition, the course provider shall be responsible for conducting an investigation to determine the circumstances surrounding the unaccounted items. A report of the findings of the investigation, including preventative measures for recurrence, shall be submitted for approval to the department within thirty (30) days of the discovery.
- (8) Each unaccounted or missing original or duplicate course completion certificate number or blank or unissued original or duplicate uniform certificate of completion may be considered a separate violation. This may include lost, stolen, or otherwise unaccounted original or duplicate course completion certificate number or blank or unissued original or duplicate uniform certificates of course completion.
- (9) Course providers shall mail all original and duplicate uniform certificates of course completion using first-class or enhanced postage or an equivalent commercial delivery method.
- (10) Course providers shall not transfer course completion certificate numbers to a course other than the course for which the certificates were ordered from the department.
- (11) No course provider or employee shall complete, issue, or validate a uniform certificate of course completion to a person who has not successfully completed all elements of the entire course as verified by a department-licensed instructor.
- (12) No course provider or employee shall issue, mail, transfer, or transmit an original or duplicate uniform certificate of course completion bearing the serial number of a certificate or duplicate previously issued.
- (13) Course providers shall sequentially number original uniform certificates of course completion from the block of numbers purchased from the department.
- (14) When a duplicate uniform certificate of course completion is issued by a course provider, the duplicate certificate shall bear a serial number from the block of numbers purchased from the department by the course provider. The duplicate certificate of course completion shall clearly indicate the number of both the duplicate and the original serial number of the certificate being replaced.
- (15) Any item on a duplicate uniform certificate of course completion that has different data than that shown on the original certificate must clearly indicate both the original data and the replacement data; for example, a change in the date of course completion must show the correct date and

"changed from XX," where "XX" is the date shown on the original uniform certificate of course completion.

- (16) The fee for a duplicate uniform certificate of course completion is \$10. If the student requests a duplicate within thirty (30) days of the date of issue of the original certificate because the original was not received or was damaged so as to be unusable or was issued with errors due to no fault of the student, the course provider shall issue the duplicate at no cost to the student. Course providers shall ensure that schools endorsed to offer the approved course are aware of this rule and shall include this information in the student enrollment contract.
  - (17) Course providers shall implement and maintain methods for efficiently issuing and mailing original uniform certificates of course completion so that issuance of duplicate certificates is kept at a minimal rate. A ratio of duplicates to originals that would indicate to a reasonable and prudent person that the course provider has failed to minimize duplicates constitutes evidence that a violation of §1001.056(c-1) of the Code, exists and shall be sufficient to initiate proceedings to sanction or condition the license of the course provider in question.
- (b) School owner responsibilities. In order to prevent misuse of uniform certificates of course completion, driving safety school owners shall ensure that:
- (1) the course provider policies are followed and communicated to all instructors and employees of the school; and
  - (2) all records are returned to the course provider in a timely manner as set forth by the course provider.
- (c) Instructor responsibilities. In order to prevent misuse of uniform certificates of course completion, driving safety and specialized driving safety instructors shall ensure that:
- (1) all records are returned to the driving safety school to be forwarded to the course provider within the time allowed by course provider policy;
  - (2) the verification of course completion document provided by the course provider is signed by the instructor who conducted the class upon completion of the class;
  - (3) the entire course is completed prior to signing the verification of course completion document;
  - (4) the court information is obtained from each student taking the driving safety or specialized driving safety class for the purposes of Texas Code of Criminal Procedure, Article 45.051 and 45.0511; and
  - (5) the instructor adheres to the school and course provider policies.

**84.64. Driving Safety Instructor License Requirements.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Application for licensing as a driving safety or specialized driving safety instructor shall be made on forms prescribed by the department. A person is qualified to apply for a driving safety or specialized driving safety instructor license who holds a valid Class A, B, C, or CDL driver's license, other than learner license or provisional license, for the preceding three years in the areas for which the individual is to teach, which has not been revoked or suspended in the preceding three years.
- (b) A person applying for an original driving safety or specialized driving safety instructor's license must submit to the department the following:
  - (1) a complete application prescribed by the department;



- (2) the required-fees;
  - (3) documentation showing that all applicable educational requirements have been met; and
  - (4) a clear and legible photocopy of the current, valid driver's license issued to the applicant.
- (c) A person applying for a driving safety or specialized driving safety instructor license may qualify for the following endorsements:
- (1) Driving safety instructor. The application shall include evidence of completion of 16 hours of training covering techniques of instruction and in-depth familiarization with material contained in the driving safety curriculum in which the individual is being trained and 12 hours of practical teaching in the same driving safety course and a statement signed by the course provider recommending the applicant for licensing. Alternatively, a currently licensed instructor may submit a copy of a current driving safety instructor license, a specialized driving safety instructor license, or a current driver education instructor license and evidence of 6 hours of training and 6 hours of demonstrative presentation teaching or practical teaching in the curriculum to be licensed. The 6 hours of training shall cover techniques of instruction and in-depth familiarization with material contained in the driving safety curriculum. The 6 hours of demonstrative presentation or practical teaching shall be in the driving safety curriculum and under the direct supervision of a licensed driving safety instructor trainer endorsed in the same driving safety curriculum.
  - (2) Specialized driving safety instructor. The application shall include evidence of completion of 16 hours of training and 12 hours of practical teaching. The 16 hours of training shall cover techniques of instruction and in-depth familiarization with material contained in the specialized driving safety curriculum. The 12 hours of practical teaching shall be in the same specialized driving safety curriculum and shall be accompanied by a statement signed by the course provider recommending the applicant for licensing. Alternatively, the applicant may submit a copy of a current driving safety instructor license or current or past certification as a National Highway Traffic Safety Association Child Passenger Safety technician or instructor and 6 hours of training and 6 hours of demonstrative presentation or practical teaching. The 6 hours of training shall cover techniques of instruction and in-depth familiarization with material contained in the specialized driving safety curriculum. The 6 hours of demonstrative presentation or practical teaching shall be in the same specialized driving safety curriculum and under the direct supervision of a licensed specialized driving safety instructor trainer endorsed in the same specialized driving safety curriculum.
  - (3) Driving safety instructor trainer. The application shall include a statement signed by the driving safety course provider (if different than the applicant) recommending the instructor as an instructor trainer and evidence of one of the following:
    - (A) a Texas teaching certificate with driver education endorsement and 12 hours of experience, exclusive of the 28-hour instructor development course, in the same driving safety course for which the individual is to teach;
    - (B) a teaching assistant certificate and 12 hours of experience, exclusive of the 28-hour instructor development course, in the same driving safety course for which the individual is to teach;
    - (C) completion of all the requirements of a driving safety instructor and 60 hours of verifiable experience as a licensed driving safety instructor, of which the most recent 12 hours shall be in the same driving safety course for which the individual is to teach; or 6 clock hours in a teaching methodology course; or
    - (D) proof of authorship of an approved driving safety course. The applicant who will provide the initial instructor training for a newly approved course shall demonstrate to the

department the ability to teach the course and instructor training course prior to being licensed.

- (4) Specialized driving safety instructor trainer. The application shall include a statement signed by the driving safety course provider (if different than the applicant) recommending the instructor as an instructor trainer, a copy of current or past certification as a National Highway Traffic Safety Association Child Passenger Safety technician or instructor, and evidence of one of the following:
  - (A) a Texas teaching certificate with driver education endorsement and 12 hours of experience, exclusive of the 28-hour instructor development course, in the same specialized driving safety course for which the individual is to teach;
  - (B) a teaching assistant certificate and 12 hours of experience, exclusive of the 28-hour instructor development course, in the same specialized driving safety course for which the individual is to teach;
  - (C) completion of all the requirements for a specialized driving safety instructor license and 60 hours of verifiable experience as a licensed driving safety instructor, of which the most recent 12 hours shall be in the same specialized driving safety course for which the individual is to teach; or 6 clock hours in a teaching methodology course; or
  - (D) proof of authorship of an approved specialized driving safety course. The applicant who will provide the initial instructor training for a newly approved course shall demonstrate to the department the ability to teach the course and the instructor training course prior to being licensed.
- (5) Instructor development course driving safety instructor trainer. The application shall include evidence of:
  - (A) completion of all the requirements for a driving safety instructor trainer plus an additional 30 hours of verifiable experience as a licensed driving safety instructor or driving safety instructor trainer in the same driving safety course for which the individual is to teach, or proof of authorship of an approved driving safety course. The applicant who will provide the initial instructor training for a newly approved course shall demonstrate to the department the ability to teach the course and the instructor training course prior to being licensed or 6 clock hours in a teaching methodology course; and
  - (B) a statement signed by the driving safety course provider, if different than the applicant, recommending the individual as an instructor development course instructor trainer in driving safety.
- (6) Instructor development course specialized driving safety instructor trainer. The application shall include a copy of a current or past certification as a National Highway Traffic Safety Association Child Passenger Safety technician or instructor and evidence of:
  - (A) completion of all the requirements for a specialized driving safety instructor trainer plus an additional 30 hours of verifiable experience as a licensed specialized driving safety instructor or specialized driving safety instructor trainer in the same specialized driving safety course for which the individual is to teach, or proof of authorship of an approved specialized driving safety course. The applicant who will provide the initial instructor training for a newly approved course shall demonstrate to the department the ability to teach the course and the instructor training course or 6 clock hours in a teaching methodology course prior to being licensed; and
  - (B) a statement signed by the driving safety course provider, if different than the applicant, recommending the individual as an instructor development course instructor trainer in

specialized driving safety.

- (d) A renewal application for a driving safety or specialized driving safety instructor license must be prepared using the following procedures.
  - (1) Application for renewal of an instructor license shall be made on a form prescribed by the department and submitted by the course provider.
  - (2) The annual instructor licensing fee and evidence of continuing education shall accompany the application.
- (e) Continuing education requirements include the following:
  - (1) Evidence of completion of continuing education shall be provided for each instructor during the individual license renewal period on forms approved by the department. A verification form indicating completion shall be provided to the department by the course provider on behalf of the instructors. The form shall be signed by the instructor receiving the training and the course provider or designee.
  - (2) Carryover credit of continuing education hours shall not be permitted.
  - (3) A licensee may not receive credit for attending the same course more than once during the same licensing period.
  - (4) A licensed individual who teaches an approved continuing education course may receive credit for attending continuing education.
  - (5) A driving safety or specialized driving safety continuing education course shall not be used for the continuing education requirement for a driver education instructor license.
- (f) An instructor who has allowed a previous license to expire shall file an original application on a form provided by the department that is submitted by the course provider. The application shall include the processing and annual instructor licensing fees and evidence of continuing education completed within the last year. Evidence of educational experience may not be required to be resubmitted if the documentation is on file at the department.
- (g) All driving safety and specialized driving safety instructor license endorsement changes shall require the following:
  - (1) written documentation showing all applicable educational requirements have been met to justify endorsement changes;
  - (2) the required fees; and
  - (3) completion of renewal requirements for current endorsements.

#### **Subchapter F. Drug and Alcohol Awareness Programs and Instructors.**

**84.70. Drug and Alcohol Driving Awareness Program School Licensure Requirements.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400; amended effective March 15, 2018, 43 TexReg 1431)*

- (a) Application for school. An application for a license for a Drug and Alcohol Driving Awareness Program school shall be made on forms prescribed by the department and shall include:
  - (1) individual requests for approval for each multiple classroom of the school. The applications shall be made on forms provided by the department. The school shall receive the department approval

for each location prior to advertising or offering a program at the location; and

- (2) verification from the course provider that the school is authorized to provide the approved drug and alcohol driving awareness program.
- (b) Approval. The department shall approve the application of a drug and alcohol driving awareness school if the department finds that the school does not owe a civil penalty under Texas Education Code, Chapter 1001.
- (c) Verification of ownership for drug and alcohol driving awareness school. In the case of an original or change of owner application for a school, the owner of the school shall provide verification of ownership.
- (d) School name. A drug and alcohol driving awareness school license shall not contain more than one school name.
- (e) Purchase of drug and alcohol driving awareness school.
  - (1) A person or persons purchasing a licensed school shall obtain an original license.
  - (2) The contract or any instrument transferring the ownership of the drug and alcohol driving awareness school shall include a statement that the purchaser shall assume the liabilities, duties, and obligations under the enrollment contracts between the students and the seller, or any former owner.
- (f) New location.
  - (1) The owner of a drug and alcohol driving awareness school must notify the department in writing of any change of address of a drug and alcohol driving awareness school at least three working days before the move.
  - (2) The school must submit the appropriate fee and all documents designated by the department as being necessary.
  - (3) The school must maintain a current mailing address and telephone number with the department.
- (g) Renewal of drug and alcohol driving awareness school license. A complete application for the renewal of a license for a drug and alcohol driving awareness school shall be submitted before the expiration of the license in accordance with Texas Education Code, Chapter 1001, and shall include the following:
  - (1) completed application for renewal;
  - (2) renewal fee, if applicable; and
- (h) Denial, revocation, or conditional license. For schools approved to offer only one drug and alcohol driving awareness program, the authority to operate a school shall cease if the program approval is revoked or if the course provider removes all authorization to teach the program. The license of the school will remain valid for sixty (60) calendar days to allow the school owner to obtain approval to provide a different program. No instruction will be allowed until a new program has been secured to teach. At the end of the 60-day period, the school license will be revoked unless an approved program will be offered. The current school license shall not be renewed without an approved program.
- (i) School closure.
  - (1) The school owner shall notify the department and the course provider at least fifteen (15) business days before the anticipated school closure. The school owner shall provide written notice to the department and the course provider of the actual discontinuance of the operation within five

working days after the cessation of classes. A school shall forward all records to the course provider responsible for the records within five (5) days.

- (2) The course provider shall provide the department with written notice of a school closure within five (5) working days after knowledge of cessation of classes.
- (3) The department may declare a school to be closed:
  - (A) as of the last day of attendance when written notification is received by the department from the school or course provider stating that the school will close;
  - (B) when the department staff determine by means of an on-site visit that the school facility has been vacated without prior notification of change of address given to the department and without the department approval of future plans to continue to operate;
  - (C) when the school owner allows the school license to expire; or
  - (D) when the school does not have the appropriate facilities and equipment to operate.

**84.71. School and Course Provider Responsibilities.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) For purposes of this subsection, the term ‘Course provider’ means an enterprise that:
  - (1) maintains a place of business or solicits business in Texas;
  - (2) is operated by an individual, association, partnership, or corporation; and
  - (3) has received an approval for a drug and alcohol awareness program from the executive director or has been designated by a person who has received that approval to conduct business and represent the person in Texas.
- (b) Course providers must be located, or maintain a registered agent, in the State of Texas. All instruction in a drug and alcohol driving awareness program shall be performed in locations approved by the department and by department-licensed instructors.
- (c) Each course provider or employee shall:
  - (1) ensure that instruction of the program is provided in schools currently approved to offer the program, and in the manner in which the program was approved;
  - (2) ensure that the program is provided by persons who have a valid current instructor license with the proper endorsement issued by the department, except as provided in subsection (a);
  - (3) ensure that schools and instructors are provided with the most recent approved program materials and relevant data and information pertaining to the program within sixty (60) days of approval. Instructor training may be required and shall be addressed in the approval notice;
  - (4) develop and maintain a means to ensure the security and integrity of student information, especially financial and personal information, in transit and at rest;
  - (5) develop and maintain a means to ensure the privacy of student data, including personal and financial data, and make the corporate privacy policy available to all course students; and
  - (6) ensure that each certificate of program completion contains the department complaint contact information.

- (d) Each drug and alcohol driving awareness school owner-operator or employee shall:
  - (1) ensure that each individual permitted to give instruction at the school or any classroom location has a valid current instructor license with the proper endorsement issued by the department, except as provided in subsection (a);
  - (2) prohibit an instructor from giving instruction or prohibit a student from receiving instruction if that instructor or student is using or exhibits any evidence or effect of an alcoholic beverage, controlled substance, drug, abusable glue, aerosol paint, or other volatile chemical as those terms are defined in the Alcoholic Beverage Code and the Health and Safety Code;
  - (3) provide instruction or allow instruction to be provided only in courses that are currently on the school's list of approved courses;
  - (4) complete, issue, or validate a certificate of program completion only for a person who has successfully completed the entire course;
  - (5) evaluate instructor performance in accordance with the course provider plan;
  - (6) develop and maintain a means to ensure the security and integrity of student information, especially financial and personal information, in transit and at rest; and
  - (7) develop and maintain a means to ensure the privacy of student data, including personal and financial data, and make the corporate privacy policy available to all course students.
- (e) For the purposes of this subchapter, each person employed by or associated with any drug and alcohol driving awareness school shall be deemed an agent of the school, and the school may share the responsibility for all acts performed by the person which are within the scope of the employment and which occur during the course of the employment.

**84.72. Instructor License Requirements.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Application for licensing as a drug and alcohol driving awareness program instructor shall be made on forms prescribed by the department.
- (b) A person is qualified to apply for a drug and alcohol driving awareness program instructor license who holds a valid driver's license for the preceding five years which has not been suspended, revoked, or forfeited in the past three years for traffic-related violations or is knowledgeable in the areas of traffic safety and alcohol/drug use and abuse.
- (c) A person applying for an original instructor license shall submit to the department the following:
  - (1) complete application as provided by the department;
  - (2) the required fees; and
  - (3) evidence of completion of instructor training and a statement signed by the course provider recommending the applicant for licensing. Original documentation shall be provided upon the request of the department. Instructor training shall consist of 16 hours of training covering techniques of instruction and in-depth familiarization with material contained in the drug and alcohol driving awareness program curriculum in which the individual is being trained.
  - (4) Alternatively, the applicant may submit a copy of a current Texas Department of State Health Services Alcohol and Drug Offender Education Program Instructor license or current certification as a Texas Department of State Health Services Offender Education Counselor and 6 hours of training and 6 hours of demonstrative presentation or practical teaching. The 6 hours of training

shall cover techniques of instruction and in-depth familiarization with material contained in the alcohol and drug education curriculum. The six hours of demonstrative presentation or practical teaching shall be in the same alcohol and drug education curriculum and under the direct supervision of a licensed alcohol and drug education instructor trainer endorsed in the same alcohol and drug education curriculum and shall be accompanied by a statement signed by the course provider recommending the applicant for licensing.

- (d) A drug and alcohol driving awareness program instructor license shall be valid for two years.
- (e) A renewal application for drug and alcohol driving awareness program instructor license must be prepared using the following procedures:
  - (1) A completed application for renewal of an instructor license; and
  - (2) renewal fee.
- (f) An instructor who has allowed a previous license to expire twelve (12) or more months shall file an original application on a form prescribed by the department and remit application fees to the department.
- (g) Drug and alcohol driving awareness program instructors who want to add a program endorsement to a license shall submit the following:
  - (1) written documentation showing all applicable educational requirements have been met to justify endorsement changes;
  - (2) fee; and
  - (3) evidence of two additional hours of training from the course provider of the drug and alcohol driving awareness program curriculum that the instructor will be licensed to teach.
- (h) All other license change requests, including duplicate instructor licenses or name changes, shall be made in writing and shall include payment of the duplicate instructor license fee.
- (i) The department shall be notified of an instructor's change of address in writing. Address changes shall not require payment of a fee.

#### **Subchapter G. General Business Practices.**

##### **84.80. Names and Advertising.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) A licensed driver education school, driving safety school, course provider or drug and alcohol awareness school may not conduct business or advertise under a name that is deceptively similar to a name used by any other licensed driver education school, driving safety school, course provider or drug and alcohol awareness school, or tax-supported educational establishment in this state, unless specifically approved in writing by the executive director.
- (b) Use of names other than the approved school name may constitute a violation of this section.
- (c) Branch schools shall conduct business using the same name as the primary school.
- (d) All advertisements of a multiple classroom location or alternative delivery method shall meet the requirements listed above.

##### **84.81. Recordkeeping Requirements.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Driver Education Schools Recordkeeping Requirements.

- (1) A driver education school shall accurately complete all school records and applications and furnish upon request any data pertaining to student enrollments and attendance, as well as records and necessary data required for licensure and to show compliance with the legal requirements for inspection by authorized representatives of the department. The records shall include timecards for instructors and schedules that reflect the duties and instruction times for instructors that correlate to the times that are shown on timecards.
- (2) The schools shall retain all student records for at least three years. A school shall maintain the records of the students who completed driver education classes at the site of instruction for the most current twelve (12) months. The school owner shall maintain all other driver education records at a location accessible by the school owner after twelve (12) months. All records pertaining to each completed student must be kept at one location. Schools with no current enrollment may request approval from the department to transfer records to the primary school or another approved location.
- (3) The school shall maintain a written or electronic daily record of attendance for all students enrolled at the instruction site. The record shall include the information specified in this subsection.
  - (A) Attendance records shall include legend entries. Each entry made on the legend must be made by using symbols, abbreviations, or other appropriate markings to indicate the following:
    - (i) absent;
    - (ii) makeup;
    - (iii) present;
    - (iv) date; and
    - (v) time.
  - (B) The individual student record form (classroom) for all students, including completed, terminated, or withdrawn, shall include the following:
    - (i) name and classroom address of the school;
    - (ii) full name, full address, telephone number of the student, and date of birth;
    - (iii) date instruction terminated, if applicable;
    - (iv) type and driver's license or permit number, if applicable, held by the student, including the expiration date and licensing state;
    - (v) month, day, year, and start and end time of instruction;
    - (vi) each unit of instruction;
    - (vii) grade earned for each unit;
    - (viii) instruction hours for classroom, simulators, behind-the-wheel, and observation;
    - (ix) initials of each instructor providing the classroom or in-car lesson. The instructor's signature and license number shall appear at least once on the form.



The teacher of record shall sign all completed classroom instruction records;

- (x) beginning and ending dates of the classroom phase; and
- (xi) statement of assurance signed by student and instructor that the record is true and correct.

(C) The individual student record form (in-car instruction) shall contain the following entries:

- (i) month, day, year, and start and end time of instruction;
- (ii) each lesson of instruction;
- (iii) score earned for each lesson;
- (iv) name of student; and
- (v) instructor's name and license number or instructor initials (if instructor's name and license number appears at least one time on the record).

(D) Each driver education school shall retain a copy of the DE-964 or ADE-1317 in the appropriate student files.

(E) Each driver education school shall, upon request, furnish each individually contracted student a duplicate of his or her instruction record when all of the courses contracted for are completed or the student otherwise ceases taking instruction at or with the school, providing all financial obligations have been met by the student.

(F) Driver education schools shall not release student records that identify the student by name or address, or may lead to such identification, except:

- (i) to authorized representatives of the department;
- (ii) to a peace officer;
- (iii) under court order or subpoena; or
- (iv) with written consent of both the student and at least one parent or legal guardian, if the student is under 18 years of age.

(b) Driving Safety Schools Recordkeeping Requirements.

(1) A driving safety school or course provider shall furnish upon request any data pertaining to student enrollments and attendance, as well as records and necessary data required for licensure and to show compliance with the legal requirements for inspection by authorized representatives of the department.

(2) The course provider shall retain all student records for at least three years. A course provider shall maintain the records of the students who completed driving safety or specialized driving safety classes for the most current twelve (12) months at the course provider location. The actual driving safety or specialized driving safety comprehension test does not have to be retained; however, the test score must be in the student's records. The division director may require a course provider to retain the actual test of each student for a designated period of time if deemed necessary by the division director to show compliance with the legal requirements.

(3) A course provider shall maintain a permanent record of instruction given to each student who

received instruction to include students who withdrew or were terminated.

- (4) A course provider shall not release student records that identify the student by name or address, or may lead to such identification, except:
  - (A) to authorized representatives of the department;
  - (B) to a peace officer;
  - (C) under court order or subpoena; or
  - (D) with written consent of both the student and at least one parent or legal guardian, if the student is under 18 years of age.
- (c) Drug and Alcohol Awareness Schools Recordkeeping Requirements.
  - (1) A drug and alcohol driving awareness school or course provider shall furnish upon request any data pertaining to student enrollments and attendance, as well as records and necessary data required for licensure, and to show compliance with the legal requirements for inspection by authorized representatives of the department.
  - (2) The school shall retain all student records for at least three years. The actual pre- and post-program exams do not have to be retained; however, the exam scores must be in the student's records.

**84.82. Student Enrollment Contracts.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Driver Education Schools Enrollment Contracts.
  - (1) A legal written or electronic student enrollment contract shall be executed prior to the school's receipt of any money. Electronic signatures shall comply with Texas Business and Commerce Code, Chapter 322.
  - (2) All driver education student enrollment contracts shall contain at least the following:
    - (A) the student's legal name;
    - (B) the student's address, including city, state, and zip code;
    - (C) the student's telephone number;
    - (D) the student's date of birth;
    - (E) the full legal name and license number of the primary school or the branch school;
    - (F) the specific course to be taught;
    - (G) the agreed total contract charges that itemize all tuition, fees, and other charges;
    - (H) the terms of payment;
    - (I) the number of classroom lessons;
    - (J) the length of each lesson and course;
    - (K) the school's cancellation, termination, and refund policy;

- (L) a statement indicating the specific location, date, and time that classroom instruction is scheduled to begin; the date classroom instruction is scheduled to end; and the amount of time a student has to complete all classroom instruction, makeup assignments, and in-car instruction;
  - (M) the number of in-car lessons;
  - (N) the rate per classroom lesson;
  - (O) the rate per in-car lesson;
  - (P) the rates for use of a school car for a road test (if an extra charge is made);
  - (Q) a statement that the school maintains a business insurance policy for vehicles with coverage as required by Texas Transportation Code, Chapter 601, and uninsured or underinsured coverage;
  - (R) the signature of a school representative; and
  - (S) the student's signature or, if the driver education student is younger than 18, the signature of the parent or guardian. The signature of the parent or guardian is not required for an individual younger than 18 who is, or has been, married or whose disabilities of minority have been removed generally by law. Instead, such an individual shall:
    - (i) present a marriage certificate or a divorce decree (but not an annulment decree) or other satisfactory evidence of marriage or of having been married; or
    - (ii) present a court order showing removal of disabilities of minority; or
    - (iii) present a notarized parental authorization.
- (3) In addition, all driver education student enrollment contracts shall contain statements substantially as follows:
- (A) I have been furnished a copy of the school tuition schedule; cancellation and refund policy; and school regulations pertaining to absence, grading policy, progress, and rules of operation and conduct.
  - (B) The school is prohibited from issuing a DE-964 or ADE-1317 if the student has not met all of the requirements for course completion, and the student should not accept a DE-964 or ADE-1317 under such circumstances.
  - (C) This agreement constitutes the entire contract between the school and the student, and assurances or promises not contained herein shall not bind the school or the student.
  - (D) I further realize that any grievances not resolved by the school may be forwarded to Driver Education and Safety Austin, Texas 78701. The current telephone number of the department shall also be provided.
- (4) A copy of the enrollment contract shall be delivered to:
- (A) the student, if 18 years of age or older; or
  - (B) the parent or guardian that signed the contract.

- (5) A copy of each enrollment contract shall be a part of the student files maintained by all driver education schools.
  - (6) Schools shall submit proposed or amended enrollment contracts to the department.
  - (7) Student enrollment contracts used at branch schools must be those approved for use at the primary school.
  - (8) Driver education courses exclusively for adults may use a group contract that includes more than one student's name.
- (b) Driving Safety Schools Enrollment Contracts.
- (1) No person shall be instructed, either theoretically or practically, or both, to operate or drive motor vehicles until after a written legal contract has been executed. A contract shall be executed prior to the school's receipt of any money.
  - (2) All driving safety and specialized driving safety contracts shall contain at least the following:
    - (A) the student's legal name and driver's license number;
    - (B) the student's address, including city, state, and zip code;
    - (C) the student's telephone number;
    - (D) the student's date of birth;
    - (E) the full legal name and license number of the driving safety school or approval number of the classroom location, as applicable;
    - (F) the specific name of the approved driving safety course to be taught;
    - (G) a statement indicating the agreed total contract charges that itemizes all tuition, fees, and other charges;
    - (H) the terms of payment;
    - (I) the number of classroom lessons;
    - (J) the number of behind-the-wheel lessons, if applicable;
    - (K) the length of each lesson or course;
    - (L) the course provider's cancellation and refund policy;
    - (M) a statement indicating the specific location, date, and time that instruction is scheduled to begin and the date classroom instruction is scheduled to end;
    - (N) the signature and license number of the instructor;
    - (O) the signature of the student or the approved equivalent for a driving safety course delivered by an alternative delivery method; and
    - (P) a statement that notifies the student of the course provider's security and privacy policy regarding student data, including personal and financial data.

- (3) In addition, all driving safety school contracts shall contain statements substantially as follows.
  - (A) I have been furnished a copy of the school tuition schedule; cancellation and refund policy; and school regulations pertaining to absence, grading policy, progress, and rules of operation and conduct.
  - (B) The school and course provider are prohibited from issuing a uniform certificate of course completion if the student has not met all of the requirements for course completion, and the student should not accept a uniform certificate of course completion under such circumstances.
  - (C) This agreement constitutes the entire contract between the school and the student, and verbal assurances or promises not contained herein shall not bind the school or the student.
  - (D) I further realize that any grievances not resolved by the school may be forwarded to the course provider (identify name and address) and to Driver Education and Safety, Austin, Texas 78701. The current telephone number of the department shall also be provided.
- (4) Driving safety or specialized driving safety may use a group contract that includes more than one student's name.
- (5) A copy of each contract shall be a part of the student files maintained by the driving safety school and/or course provider.
- (6) Course providers shall submit proposed or amended contracts to the division, and those documents shall be approved prior to use by schools.
- (7) Contracts for group instruction must meet all legal requirements.
- (8) Contracts executed in an electronic format shall be considered to contain original signatures for purposes of this section.
- (c) Drug and Alcohol Awareness Schools Enrollment Contracts.
  - (1) No person shall be instructed in a drug and alcohol driving awareness program until after being enrolled.
  - (2) All drug and alcohol driving awareness enrollment forms shall provide students with the following information:
    - (A) Grievances not resolved by the school may be forwarded to Driver Education and Safety, Austin, Texas 78701. The current telephone number of the department shall also be provided.
    - (B) The school is prohibited from issuing a certificate of program completion if the student has not met all of the requirements for program completion, and the student should not accept a certificate of program completion under such circumstances.

**84.83. Student Complaints.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Primary schools and course providers shall have a written grievance procedure that is disclosed to all students. Branch schools shall follow the procedures approved for the primary school. Driving Safety schools shall follow the procedures approved for the course provider.
- (b) Primary schools, driving safety schools and course providers shall make every effort to resolve disputes

between students, including terminations and graduates, and the school.

- (c) The front of each uniform certificate of course completion shall contain department complaint contact information and current department telephone number and email address in a font that is visibly recognizable.

**84.84. Notification of Public Interest Information and Participation.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

Consumers and service recipients shall be notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department regarding the Driver Education and Safety Program. The notification must appear on at least one of the following:

- (1) each registration form, application, or written contract for services of a person regulated under this chapter;
- (2) a sign prominently displayed in the place of business of each person regulated under this chapter; or
- (3) a bill for service provided by a person regulated under this chapter.

**Subchapter H. Facilities and Equipment for Driver Education Schools, Driving Safety Schools and Drug and Alcohol Awareness Schools.**

**84.90. Facilities and Equipment.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Each driver education, driving safety, specialized driving safety, and drug and alcohol driving awareness school shall conduct the department approved course in a facility or facilities approved by the department.
- (b) A school offering any phase of driver education shall maintain an office in a place other than a private residence; and no classroom facility for driver education programs shall be located in a private residence.
- (c) The amount of classroom space for any driver education, driving safety, specialized driving safety, and drug and alcohol driving awareness school shall meet the use requirements of the maximum number of current students in class with appropriate seating and writing facilities as necessitated by the activity patterns of the course.
- (d) The facilities shall meet any state and local ordinances governing housing and safety for the use designated.
- (e) The classroom facilities, when used for instruction, shall contain at least the following:
  - (1) adequate seating facilities for all students being trained;
  - (2) adequate charts, diagrams, mock-ups, and pictures relating to the operation of motor vehicles (if applicable), traffic laws, physical forces, and correct driving procedures; and
  - (3) any materials that have been approved as a part of the course approval.
- (f) Each driver education, driving safety, specialized driving safety, and drug and alcohol driving awareness school shall be provided in designated instructional areas that promote learning by ensuring that students are able to see and hear the instructor and audiovisual aids. Any facility that contains an adult-oriented business or a facility that is required to exclude patrons because of age will not be approved. Factors that will be considered in determining whether facilities promote learning include facility layout, visual and hearing distractions, and equipment functionality.
- (g) A violation of the law or rules at any multiple classroom location constitutes a violation by the driving

safety, specialized driving safety or drug and alcohol driving awareness school.

- (h) All classroom and multiple classroom location approvals are contingent on the driving safety, specialized driving safety or drug and alcohol driving awareness school license and shall be subject to denial or revocation if such action is taken against the license of the school.
- (i) The driving safety course provider location shall be the physical address as stated on the course provider license.
- (j) No drug or alcohol awareness program may be taught in any location where alcohol is present.

### **Subchapter I. Inspections.**

#### **84.100. Inspections--General.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Driver Education schools shall be inspected periodically, or as a result of a complaint. These inspections will be performed to determine compliance with the requirements of the Code and this chapter.
- (b) Inspections shall be performed during the normal operating hours of the driver education school. Except for initial inspections of driver education schools, the department may conduct inspections under the Act and this chapter without advance notice.
- (c) The department inspector will contact the driver education school owner, manager, or their representative upon arrival at the school, and before proceeding with the inspection.
- (d) The driver education school owner, manager, or representative shall cooperate with the inspector in the performance of the inspection.
- (e) Driver education schools shall display a copy of the establishment's most recent inspection report issued by the department in a common area, lobby or hallway location within the building in which the school is located and accessible to the public without assistance or permission during all hours in which the school is in operation.

#### **84.101. Initial Inspections--Inspection of Driver Education Schools Before Operation.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Any new or relocated driver education school must be inspected and approved by the department before it may operate. Additionally, a driver education school that has changed ownership must be inspected and approved by the department, but may continue to operate prior to inspection.
- (b) The driver education school owner shall request an initial inspection from the department.
- (c) Upon receipt of the owner's request, the department shall schedule the initial inspection date and notify the owner.
- (d) Upon completion of the initial inspection, the owner shall be advised in writing of the results. The inspection report must indicate whether the driver education school meets or does not meet the minimum requirements of the Code and this chapter.
- (e) For driver education schools that do not meet the minimum requirements, the report will reflect those minimum requirements that remain to be addressed and corrected by the owner, and a timeline for the corrections to be made.
- (f) A driver education school that does not meet the minimum requirements on initial inspection must be re-inspected. The driver education school owner must submit the request for re-inspection before the department will perform the re-inspection.

**84.102. Periodic Inspections.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Each driver education school shall be inspected at least one time in a calendar year.
- (b) Upon completion of the inspection, the owner shall be advised in writing of the results. The inspection report will indicate whether the inspection was approved or not approved, and will describe any violations identified during the inspection.
- (c) For inspections that are not approved, the inspection report will identify violations that must be corrected by the owner. The report will also indicate the corrective modifications required to address any violations. Additionally, the department may assess administrative penalties and/or administrative sanctions for violations, in accordance with the Code and this chapter.

**Subchapter J. Driver Education and Driving Safety School Cancellation and Refund.**

**84.200. Cancellation and Refund Policy.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Driver Education School, Driving Safety School and Course Provider cancellation and refund policies shall be in accordance with the Code and this chapter.
- (b) Driving Safety Schools shall use the cancellation policy approved for the course provider.
- (c) If a student withdraws or is terminated from the course, a refund must be issued that corresponds to the actual instructional hours not provided.
- (d) Refunds for all driver education schools, driving safety schools and course providers shall be completed within thirty (30) days after the effective date of termination except as allowed under §84.46. Proof of completion of refund shall be the refund document or copies of both sides of the canceled check and shall be on file within seventy-five (75) days of the effective date of termination. All refund checks shall identify the student to whom the refund is assigned. In cases where multiple refunds are made using one check, the check shall identify each individual student and the amount to be credited to that student's account.
- (e) In reference to §1001.404 of the Code, the interest rate on unpaid refunds is set at 20%.
- (f) In reference to §1001.404 of the Code, a driver education school, driving safety school or course provider is considered to have made a good faith effort to consummate a refund if the student file contains evidence of the following attempts:
  - (1) certified mail to the student's last known address;
  - (2) certified mail to the student's permanent address; and
  - (3) certified mail to the address of the student's parent, if different from the permanent address.
- (g) Any funds received from, or on behalf of, a student shall be recorded in a format that is readily accessible to representatives of the department.
- (h) Branch schools shall use the policies approved for use at the primary school.

**Subchapter K. Fees.**

**84.300. Driver Education Fees.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) All fees paid to the department are nonrefundable.
- (b) Driver Education School Fees:



- (1) The initial application fee for a primary driver education school is \$1,000.
  - (2) The initial application fee for a branch driver education school is \$850.
  - (3) The renewal application fee for a primary driver education school is \$200.
  - (4) The renewal application fee for a branch driver education school is \$200.
  - (5) The fee for a change of address of a driver education primary school and branch is \$180.
  - (6) The fee for a change of name of a driver education school or to change the name of an owner is \$100.
  - (7) If a driver education school changes ownership as defined under §84.2(6), the fee paid by the new owner is \$1,000 for a primary driver education school and \$850 for a branch driver education school.
- (c) Driver Education Instructor Fees:
- (1) The initial application fee for a driver education instructor license is \$50. The fee may not be collected for an applicant who is currently teaching a driver education course in a public school in this state.
  - (2) The annual renewal application fee for a driver education instructor license is \$25.
  - (3) The national criminal history check fee - The fee in the amount set by and paid to the Texas Department of Public Safety for the cost of fingerprint processing and obtaining national criminal history record information from the Texas Department of Public Safety, its contractors, and the Federal Bureau of Investigation.
- (d) Driver Education Course Fees:
- (1) The application fee for approval of a traditional driver education course exclusively for adults is \$500.
  - (2) The application fee for approval of an online driver education course exclusively for adults is \$9,000.
  - (3) The application fee for each additional driver education course is \$25.
  - (4) The application fee for approval of a 32-hour Alternative Method of Instruction (AMI) for driver education classroom is \$15,000.
  - (5) The application fee for approval of part of a 32-hour AMI for driver education classroom is \$500 per instructional hour.
  - (6) The fee for a DE-964 certificate of completion is \$1.00.
  - (7) The fee for an ADE-1317 certificate of completion is \$1.00.
- (e) Other Fees:
- (1) A duplicate/replacement fee for any license issued under this chapter is \$25.
  - (2) Late renewal fees for licenses issued under this chapter are provided under §60.83 of this title

(relating to Late Renewal Fees).

- (3) A dishonored/returned check or payment fee is the fee prescribed under §60.82 of this title (relating to Dishonored Payment Device).
- (4) The fee for a criminal history evaluation letter is the fee prescribed under §60.42 of this title (relating to Criminal History Evaluation Letters).

**84.301. Driving Safety Fees.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) All fees paid to the department are nonrefundable.
- (b) Driving Safety School Fees:
  - (1) The initial application fee for a driving safety school is \$150.
  - (2) The fee for a change of address of a driving safety school is \$50.
  - (3) The fee for a change of name of a driving safety school or name of owner is \$50.
  - (4) If a driving safety school changes ownership as defined under §84.2(6), the fee paid by the new owner is \$150.
- (c) Driving Safety Instructor Fees:
  - (1) The initial application fee for a driving safety instructor license is \$50.
  - (2) The initial application fee for a specialized driving safety instructor license is \$50.
  - (3) The annual renewal application fee for a driving safety instructor license is \$25.
  - (4) The annual renewal application fee for a specialized driving safety instructor license is \$25.
- (d) Driving Safety Course Provider Fees:
  - (1) The initial application fee for a course provider is \$2,000.
  - (2) The annual renewal application fee for a course provider is \$200.
  - (3) The fee for a change of address of a course provider is \$50.
  - (4) The fee for a change of name of a course provider or name of owner is \$100.
  - (5) If a driving safety course provider changes ownership as defined under §84.2(6), the fee paid by the new owner is \$2,000.
- (e) Driving Safety Course Fees:
  - (1) The fee for a driving safety course approval is \$9,000.
  - (2) The fee for a specialized driving safety course approval is \$9,000.
  - (3) The application fee for each additional course for a driving safety school is \$25.
  - (4) The fee for a course completion certificate number is \$1.00.

- (f) Other Fees:
  - (1) A duplicate/replacement fee for any license issued under this chapter is \$25.
  - (2) Late renewal fees for licenses issued under this chapter are provided under §60.83 of this title (relating to Late Renewal Fees).
  - (3) A dishonored/returned check or payment fee is the fee prescribed under §60.82 of this title (relating to Dishonored Payment Device).
  - (4) The fee for a criminal history evaluation letter is the fee prescribed under §60.42 of this title (relating to Criminal History Evaluation Letters).

**84.302. Drug and Alcohol Driving Awareness Fees.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) All fees paid to the department are nonrefundable.
- (b) Drug and Alcohol Driving Awareness Schools:
  - (1) The initial application fee for a drug and alcohol driving awareness school is \$150.
  - (2) The fee for a change of address of a drug and alcohol driving awareness school is \$50.
  - (3) The fee for a change of name of a drug and alcohol driving awareness school or name of owner is \$50.
  - (4) If a drug and alcohol driving awareness school changes ownership as defined under §84.2(6), the fee paid by the new owner is \$150.
- (c) Drug and Alcohol Driving Awareness Programs:
  - (1) The fee for a drug and alcohol driving awareness program approval is \$9,000.
  - (2) The fee for a drug and alcohol driving awareness program alternative delivery method approval is \$9,000.
  - (3) The application fee for each additional program for a drug and alcohol driving awareness school is \$25.
- (d) Drug and Alcohol Driving Awareness Instructors:
  - (1) The initial application fee (including processing and licensing fees) for a drug and alcohol driving awareness instructor license is \$75.
  - (2) The renewal application fee for a drug and alcohol driving awareness instructor license is \$25.
- (e) Other Fees:
  - (1) A duplicate/replacement fee for any license issued under this chapter is \$25.
  - (2) Late renewal fees for licenses issued under this chapter are provided under §60.83 of this title (relating to Late Renewal Fees).
  - (3) A dishonored/returned check or payment fee is the fee prescribed under §60.82 of this title (relating to Dishonored Payment Device).

- (4) The fee for a criminal history evaluation letter is the fee prescribed under §60.42 of this title (relating to Criminal History Evaluation Letters).

#### **Subchapter L. Complaints and Enforcement Provisions.**

##### **84.400. Administrative Penalties and Sanctions.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

If a person or entity violates any provision of Texas Education Code, Chapter 1001, Texas Transportation Code, Chapter 521, this chapter, or any rule or order of the executive director or commission, proceedings may be instituted to impose administrative penalties, administrative sanctions, or both in accordance with the provisions of Texas Education Code, Chapter 1001, Texas Occupations Code, Chapter 51, and any associated rules.

##### **84.401. Enforcement Authority.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

The enforcement authority granted under Texas Education Code, Chapter 1001, and Texas Occupations Code, Chapter 51 and any associated rules may be used to enforce Texas Education Code, 1001 and this chapter.

#### **Subchapter M. Curriculum and Alternative Methods of Instruction.**

##### **84.500. Courses of Instruction for Driver Education Schools.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400; amended effective March 15, 2018, 43 TexReg 1431; amended effective July 1, 2018, 43 TexReg 3875)*

- (a) The educational objectives of driver training courses shall include, but not be limited to, promoting respect for and encouraging observance of traffic laws and traffic safety responsibilities of driver education and citizens; instruction on law enforcement procedures for traffic stops in accordance with provisions of the Community Safety Education Act (Senate Bill 30, 85<sup>th</sup> Regular Legislature); reducing traffic violations; reducing traffic-related injuries, deaths, and economic losses; the proper use of child passenger safety seat systems; and motivating development of traffic-related competencies through education, including, but not limited to, Texas traffic laws, risk management, driver attitudes, courtesy skills, and evasive driving techniques.
- (b) This subsection contains requirements for driver education courses. All course content and instructional material shall include current statistical data, references to law, driving procedures, and traffic safety methodology. For each course, curriculum documents and materials may be requested as part of the application for approval.
  - (1) Minor and adult driver education course.
    - (A) The driver education classroom phase for students age 14 and over shall consist of:
      - (i) a minimum of 32 hours of classroom instruction. The in-car phase must consist of seven hours of behind-the-wheel instruction and seven hours of in-car observation in the presence of a person who holds a driver education instructor license; and
      - (ii) 30 hours of behind-the-wheel instruction, including at least 10 hours of nighttime instruction, in the presence of an adult who meets the requirements of Texas Transportation Code, §521.222(d)(2). The 30 hours of instruction must be endorsed by a parent or legal guardian if the student is a minor. Simulation hours shall not be substituted for these 30 hours of instruction. Driver education training endorsed by the parent is limited to one hour per day.
    - (B) Schools are allowed five minutes of break per instructional hour for all phases. No more than ten minutes of break time may be accumulated for each two hours of instruction.
    - (C) Driver education course curriculum content, minimum instruction requirements, and

administrative guidelines for classroom instruction, in-car training (behind-the-wheel and observation), simulation, and multicar range shall include the educational objectives established by the department in the Program of Organized Instruction in Driver Education and Traffic Safety (POI) and meet the requirements of this subchapter. In addition, the educational objectives that must be provided to every student enrolled in a minor and adult driver education course shall include information relating to litter prevention, anatomical gifts, leaving children in vehicles unattended, distractions, motorcycle awareness, alcohol awareness and the effect of alcohol on the effective operation of a motor vehicle, and recreational water safety.

- (D) Driver education schools that desire to instruct students age 14 and over in a traditional classroom program shall provide the same beginning and ending dates for each student in the same class of 36 or less. No student shall be allowed to enroll and start the classroom phase after the seventh hour of classroom instruction has begun.
- (E) Students shall proceed in the sequence identified by and approved for that school.
- (F) Students shall receive classroom instruction from an instructor who is approved and licensed by the department. An instructor shall be in the classroom and available to students during the entire 32 hours of instruction, including self-study assignments. Instructors shall not have other teaching assignments or administrative duties during the 32 hours of classroom instruction.
- (G) Videos, tape recordings, guest speakers, and other instructional media that present concepts required in the POI may be used as part of the required 32 hours of traditional classroom instruction. Instructors shall refrain from using any type of media for an extended period of time and should only use videos for no more than 640 minutes. PowerPoint slides or equivalent software solutions are considered to be approved teaching aids and does not fall into the restricted media aids.
- (H) Self-study assignments occurring during regularly scheduled class periods shall not exceed 25% of the course and shall be presented to the entire class simultaneously.
- (I) Each classroom student shall be provided a driver education textbook designated by the commissioner or access to instructional materials that are in compliance with the POI approved for the school. Instructional materials, including textbooks, must be in a condition that is legible and free of obscenities.
- (J) A copy of the current edition of the "Texas Driver Handbook" or instructional materials that are equivalent shall be furnished to each student enrolled in the classroom phase of the driver education course.
- (K) Each student, including makeup students, shall be provided their own seat and table or desk while receiving classroom instruction. A school shall not enroll more than thirty-six (36) students, excluding makeup students, and the number of students may not exceed the number of seats and tables or desks available at the school.
- (L) When a student changes schools, the school must follow the current transfer policy developed by the department and Texas Department of Public Safety (DPS).
- (M) All classroom phases of driver education, including makeup work, shall be completed within the timelines stated in the original student contract. This shall not circumvent the attendance and progress requirements.
- (N) All in-car lessons shall consist of actual driving instruction. No school shall permit a ratio of more than four students per instructor or exceed the seating and occupant restraint

capacity of the vehicle used for instruction. Schools that allow one-on-one instruction shall notify the parents in the contract.

- (O) A student must have a valid driver's license or learner license in his or her possession during any behind-the-wheel instruction.
  - (P) All in-car instruction provided by the school shall begin no earlier than 5:00 a.m. and end no later than 11:00 p.m. The division may approve exceptions; however, the request shall be made in writing by the school owner or school director and include acknowledgment by all parents in the form of signatures.
  - (Q) A school may use multimedia systems, simulators, and multicar driving ranges for in-car instruction in a driver education program. Each simulator, including the filmed instructional programs, and each plan for a multicar driving range must meet state specification developed by DPS and the department. A licensed driver education instructor must be present during use of multimedia systems, simulators, and multicar driving ranges.
  - (R) Four periods of at least 55 minutes per hour of instruction in a simulator may be substituted for 1 hour of behind-the-wheel instruction and 1 hour of in-car observation. Two periods of at least 55 minutes per hour of multicar driving range instruction may be substituted for 1 hour of behind-the-wheel instruction and 1 hour of in-car observation relating to elementary or city driving lessons. However, a minimum of four hours must be devoted to actual behind-the-wheel instruction.
  - (S) In a minor and adult driver education program, a student may apply to the DPS for a learner license after completing the objectives found in Module One: Traffic Laws
  - (T) A student issued a DE-964 under the block and concurrent programs must subsequently complete the required classroom instruction. If a student does not subsequently complete the required class instruction, the instructor must complete DPS Form DL-42 and send it to the DPS division responsible for license and driver records. Form DL-42 should be prepared as soon as it is evident the student will not complete the required hours of instruction. The DPS may then revoke the student's instruction permit.
  - (U) Each school owner that teaches driver education courses shall collect adequate student data to enable the department to evaluate the overall effectiveness of the driver education course in reducing the number of violations and accidents of persons who successfully complete the course. The department may determine a level of effectiveness that serves the purposes of the Code.
- (2) Driver education course exclusively for adults. Courses offered in a traditional classroom setting or online to persons who are age 18 to under 25 years of age for the education and examination requirements for the issuance of a driver's license under Texas Transportation Code, §521.222(c) and §521.1601, must be offered in accordance with the following guidelines.
- (A) Traditional approval process. The department may approve a driver education course exclusively for adults to be offered traditionally if the course meets the following requirements.
    - (i) Application. The driver education school shall submit a completed application along with the appropriate fee.
    - (ii) Instructor license required. Students shall receive classroom instruction from a licensed supervising teacher, driver education teacher, supervising teaching assistant-full or teaching assistant-full.

- (iii) Minimum course content. The driver education course exclusively for adults shall consist of six clock hours of classroom instruction that meets the following topics.
  - (I) Course introduction--ten minutes. Objective: The student recognizes the value of legal and responsible reduced-risk driving practices and accepts driving as a privilege with responsibilities, obligations, and potential consequences.
  - (II) Your license to drive--minimum of 20 minutes. Objective: The student reduces risk and accepts driving as a privilege by legally and responsibly possessing a driver's license, registering and having a current inspection on a motor vehicle, and obeying the Safety Responsibility Act.
  - (III) Right-of-way--minimum of 50 minutes. Objective: The student reduces risk by legally and responsibly accepting or yielding the right-of-way.
  - (IV) Traffic control devices--minimum of 40 minutes. Objective: The student reduces risk by legally and responsibly applying knowledge and understanding of traffic control devices.
  - (V) Controlling traffic flow--minimum of 40 minutes. Objective: The student reduces risk by legally and responsibly applying knowledge and understanding of laws and procedures for controlling traffic flow.
  - (VI) Alcohol and other drugs--minimum of 50 minutes. Objective: The student legally and responsibly performs reduced-risk driving practices by adopting zero-tolerance driving and lifestyle practices related to the use of alcohol and other drugs and applying knowledge and understanding of alcohol and other drug laws, regulations, penalties, and consequences.
  - (VII) Cooperating with other roadway users--minimum of 20 minutes. Objective: The student reduces risk by legally and responsibly cooperating with law enforcement and other roadway users, including vulnerable roadway users in emergency and potential emergency situations.
  - (VIII) Managing risk--minimum of 50 minutes. Objective: The student reduces and manages risk by legally and responsibly understanding the issues commonly associated with motor vehicle collisions, including poor decision making, risk taking, impaired driving, distractions, speed, failure to use a safety belt, driving at night, and using a wireless communications device while operating a vehicle.
  - (IX) Classroom progress assessment--25 minutes (this shall be the last unit of instruction). The remaining 25 minutes of instruction shall be allocated to the topics included in the minimum course content under subclauses (II)-(VIII) of this clause.
- (iv) Course management. An approved adult driver education course shall be presented in compliance with the following guidelines.
  - (I) The instructor shall be physically present in appropriate proximity to

the student for the type of instruction being given. The teacher of record shall sign all completed classroom instruction records provided by a supervising teaching assistant-full or teaching assistant-full.

- (II) A copy of the current edition of the "Texas Driver Handbook" or study material that is equivalent shall be furnished to each student enrolled in the course.
  - (III) Self-study assignments, videos, tape recordings, guest speakers, and other instructional media that present topics required in the course shall not exceed 120 minutes of instruction. PowerPoint slides or equivalent software solutions are considered to be approved teaching aids and does not fall into the restricted media aids.
  - (IV) Each student, including makeup students, shall be provided their own seat and table or desk while receiving classroom instruction. A school shall not enroll more than 36 students, excluding makeup students, and the number of students may not exceed the number of seats and tables or desks available at the school.
  - (V) All classroom instruction, including makeup work, shall be completed within the timelines stated in the original student contract.
  - (VI) A minimum of 330 minutes of instruction is required.
  - (VII) The total length of the course shall consist of a minimum of 360 minutes.
  - (VIII) Thirty minutes of time, exclusive of the 330 minutes of instruction, shall be dedicated to break periods or to the topics included in the minimum course content.
  - (IX) Students shall not receive a driver education certificate of completion unless that student receives a grade of at least 70% on the highway signs examination and at least 70% on the traffic laws examination as required under Texas Transportation Code, §521.161.
  - (X) The driver education school shall make a material effort to establish the identity of the student.
- (B) Online approval process. The department may approve a driver education course exclusively for adults to be offered online if the course meets the following requirements.
- (i) Application. The driver education school shall submit a completed application along with the appropriate fee.
  - (ii) Request for approval. The request for approval must include a syllabus cross-reference, contract, and instructional records.
  - (iii) School license required. A person or entity offering an online driver education course exclusively for adults must hold a driver education school license.
- (I) The driver education school shall be responsible for the operation of the online course.
  - (II) Students shall receive classroom instruction from a licensed



supervising teacher, driver education teacher, or teaching assistant-full.

- (iv) Course content. The online course must meet the requirements of the course identified in §1001.1015 of the Code.
  - (I) Course topics. The course requirements described in subparagraph (A)(iii) shall be met.
  - (II) Length of course. The course must be 6 hours in length, which is equal to 360 minutes. A minimum of 330 minutes of instruction must be provided. Thirty minutes of time, exclusive of the 330 minutes of instruction, shall be dedicated to break periods or to the topics included in the minimum course content. All break periods shall be provided after instruction has begun and before the comprehensive examination and summation.
  - (III) Required material. A copy of the current edition of the "Texas Driver Handbook" or study material that is equivalent shall be furnished to each student enrolled in the course.
  - (IV) Editing. The material presented in the online course shall be edited for grammar, punctuation, and spelling and be of such quality that it does not detract from the subject matter.
  - (V) Irrelevant material. Advertisement of goods and services shall not appear during the actual instructional times of the course. Distracting material that is not related to the topic being presented shall not appear during the actual instructional times of the course.
  - (VI) Minimum content. The online course shall present sufficient content so that it would take a student 360 minutes to complete the course. In order to demonstrate that the online course contains sufficient minutes of instruction, the online course shall use the following methods.
    - (-a-) Word count. For written material that is read by the student, the course shall contain the total number of words in the written sections of the course. This word count shall be divided by 180, the average number of words that a typical student reads per minute. The result is the time associated with the written material for the sections.
    - (-b-) Multimedia presentations. For multimedia presentation, the online course shall calculate the total amount of time it takes for all multimedia presentations to play, not to exceed 120 minutes.
    - (-c-) Charts and graphs. The online course may assign one minute for each chart or graph.
    - (-d-) Time allotment for questions. The online course may allocate up to 60 seconds for questions presented over the Internet and 60 seconds for questions presented by telephone.
    - (-e-) Total time calculation. If the sum of the time associated with the written course material, the total amount of time for all multimedia presentations, and the time associated with all

charts and graphs equals or exceeds 330 minutes, the online course has demonstrated the required amount of minimum content.

- (-f-) Alternate time calculation method. In lieu of the time calculation method, the online course may submit alternate methodology to demonstrate that the online course meets the 330-minute requirement.
- (v) Personal validation. The online course shall maintain a method to validate the identity of the person taking the course. The personal validation system shall incorporate one of the following requirements.
  - (I) School-initiated method. Upon approval by the department, the online course may use a method that includes testing and security measures that validate the identity of the person taking the course. The method must meet the following criteria.
    - (-a-) Time to respond. The student must correctly answer a personal validation question within 60 seconds.
    - (-b-) Placement of questions. At least two personal validation questions shall appear randomly during each instructional hour, not including the final examination.
    - (-c-) Exclusion from the course. The online course shall exclude the student from the course after the student has incorrectly answered more than 30% of the personal validation questions.
    - (-d-) Correction of answer. The online course may correct an answer to a personal validation question for a student who inadvertently missed a personal validation question. In such a case, the student record shall include a record of both answers and an explanation of the reasons why the answer was corrected.
  - (II) Third party data method. The online course shall ask a minimum of twelve (12) personal validation questions randomly throughout the course from a bank of at least twenty (20) questions drawn from a third party data source. The method must meet the following criteria.
    - (-a-) Time to respond. The student must correctly answer a personal validation question within sixty (60) seconds.
    - (-b-) Placement of questions. At least two personal validation questions shall appear randomly during each instructional hour, not including the final examination.
    - (-c-) Exclusion from the course. The online course shall exclude the student from the course after the student has incorrectly answered more than 30% of the personal validation questions.
    - (-d-) Correction of answer. The online course may correct an answer to a personal validation question for a student who inadvertently missed a personal validation question. In such a case, the student record shall include a record of both answers

and an explanation of the reasons why the answer was corrected.

- (vi) Content validation. The online course shall incorporate a course content validation process that verifies student participation and comprehension of course material, including the following.
  - (I) Timers. The online course shall include built-in timers to ensure that 330 minutes of instruction have been attended and completed by the student.
  - (II) Testing the student's participation in multimedia presentations. The online course shall ask at least 1 course validation question following each multimedia clip of more than sixty (60) seconds.
    - (-a-) Test bank. For each multimedia presentation that exceeds sixty (60) seconds, the online course shall have a test bank of at least four (4) questions.
    - (-b-) Question difficulty. The question shall be short answer, multiple choice, essay, or a combination of these forms. The question shall be difficult enough that the answer may not be easily determined without having viewed the actual multimedia clip.
    - (-c-) Failure criteria. If the student fails to answer the question correctly, the online course must require the student to view the multimedia clip again. The online course shall then present a different question from its test bank for that multimedia clip. The online course may not repeat a question until it has asked all the questions from its test bank.
    - (-d-) Answer identification. The online course shall not identify the correct answer to the multimedia question.
  - (III) Course participation questions. The online course shall test the student's course participation by asking at least two questions from each of the seven topics listed in subparagraph (A)(v)(II)-(VIII).
    - (-a-) Test bank. The test bank for course participation questions shall include at least ten questions from each of the seven topics identified in subparagraph (A)(v)(II)-(VIII).
    - (-b-) Placement of questions. The course participation questions shall be asked at the end of the major unit or section in which the topic is covered.
    - (-c-) Question difficulty. Course participation questions shall be of such difficulty that the answer may not be easily determined without having participated in the actual instruction.
  - (IV) Comprehension of course content. The online course shall test the student's mastery of the course content by administering at least 30 questions covering the highway signs and traffic laws required under Texas Transportation Code, §521.161.

- (-a-) Test banks (two). Separate test banks for course content mastery questions are required for the highway signs and traffic laws examination as required under Texas Transportation Code, §521.161, with examination questions drawn equally from each.
  - (-b-) Placement of questions. The mastery of course content questions shall be asked at the end of the course (comprehensive final examination).
  - (-c-) Question difficulty. Course content mastery questions shall be of such difficulty that the answer may not be easily determined without having participated in the actual instruction.
- (vii) Retest the student. If the student misses more than 30% of the questions asked on an examination, the online course shall retest the student using different questions from its test bank. The student is not required to repeat the course, but may be allowed to review the course prior to retaking the examination. If the student fails the comprehensive final examination three times, the student shall fail the course.
- (viii) Student records. The online course shall provide for the creation and maintenance of the records documenting student enrollment, the verification of the student's identity, and the testing of the student's mastery of the course material. The school shall also ensure that the student record is readily, securely, and reliably available for inspection by a department representative. The student records shall contain the following information:
  - (I) the student's first, middle, and last name;
  - (II) the student's date of birth and gender;
  - (III) a record of all questions asked and the student's responses;
  - (IV) the name or identity number of the staff member entering comments, retesting, or revalidating the student;
  - (V) both answers and a reasonable explanation for the change if any answer to a question is changed by the school for a student who inadvertently missed a question; and
  - (VI) a record of the time the student spent in each unit and the total instructional time the student spent in the course.
- (ix) Waiver of certain education and examination requirements. A licensed driver education instructor must determine that the student has successfully completed and passed a driver education course exclusively for adults prior to waiving the examination requirements of the highway sign and traffic law parts of the examination required under Texas Transportation Code, §521.161, and signing the ADE-1317 driver education completion certificate.
- (x) Age requirement. A person must be at least 18 years of age to enroll in a driver education course exclusively for adults.
- (xi) Issuance of certificate. Not later than the 15th working day after the course

completion date, the school shall issue an ADE-1317 driver education certificate only to a person who successfully completes an approved online driver education course exclusively for adults.

- (xii) Access to instructor. The school must establish hours that the student may access the instructor. With the exception of circumstances beyond the control of the school, the student shall have access to the instructor during the specified hours.
- (xiii) Additional requirements for online courses.
  - (I) Re-entry into the course. An online course may allow the student re-entry into the course by username and password authentication or other means that are as secure as username and password authentication.
  - (II) Navigation. The student shall be provided orientation training to ensure easy and logical navigation through the course. The student shall be allowed to freely browse previously completed material.
  - (III) Audio-visual standards. The video and audio shall be clear and, when applicable, the video and audio shall be synchronized.
  - (IV) Domain names. Each school offering an online course must offer that online course from a single domain. The online course may accept students that are redirected to the online course domain, as long as the school license number appears on the source that redirects the student to the online course domain. The student must be redirected to a webpage that clearly identifies the licensed school offering the online course before the student begins the registration process, supplies any information, or pays for the course.
- (3) Compliance with Texas Transportation Code, §521.1601. Persons age 18 to under 25 years of age must successfully complete either a minor and adult driver education course or the driver education course exclusively for adults. Partial completion of either course does not satisfy the requirements of rule or law.
- (4) Issuance of certificate. A licensed school or instructor may not issue an ADE-1317 adult driver education certificate to a person who is not at least 18 years of age.
- (c) This subsection contains requirements for driver education instructor development courses. For each course, the following curriculum documents and materials are required to be submitted as part of the application for approval. If the course meets the minimum requirements set forth in this subchapter, the division may grant an approval. Schools desiring to provide driver education instructor development courses shall provide an application for approval that shall be in compliance with this section.
  - (1) Schools desiring to obtain approval for a driver education instructor development course shall request an application for approval from the department. All instructor development curricula submitted for approval shall meet or exceed the requirements set forth for approved programs offered at colleges, universities, school districts, or educational service centers and shall be specific to the area of specialization. Guidelines and criteria for the course shall be provided with the application packet, and the school shall meet or exceed the criteria outlined.
    - (A) Six-semester-hour instructor development course. The driver education instructor development program instructional objectives must be equivalent to 6 semester hours or 90 clock hours of driver and traffic safety education instructor training and shall include:

- (i) Driver Education I--minimum of 45 clock hours. Instructional objectives: the trainee shall acquire the knowledge, skills, and understanding to instruct students in the reduced-risk driving practices in the Highway Transportation System (HTS) in accordance with the standards for minor and adult driver education and traffic safety. Instruction shall address the following topics:
  - (I) overview of Driver Education I;
  - (II) minor and adult driver education curriculum overview and course goals;
  - (III) school and instructor liability and responsibility;
  - (IV) student evaluation and assessment;
  - (V) instructor conduct, including professionalism and public relations;
  - (VI) rules, codes, and standards for driver education programs; and
  - (VII) classroom progress examination for Driver Education I.
- (ii) Driver Education II--minimum of 45 clock hours. Instructional objectives: the trainee shall acquire the knowledge, skills, and understanding to instruct students in the reduced-risk driving practices in the HTS in accordance with the standards for minor and adult driver education and traffic safety for in-car instruction. Instruction shall address the following topics:
  - (I) overview of Driver Education II;
  - (II) minor and adult driver education in-car curriculum overview;
  - (III) commentary driving techniques;
  - (IV) factors that influence learning and habit formation;
  - (V) in-car lesson planning, including scheduling and designing;
  - (VI) vocabulary and communication;
  - (VII) risk management;
  - (VIII) general guidelines for conducting behind-the-wheel and in-car observation;
  - (IX) in-car debriefing techniques;
  - (X) proper record keeping and maintenance;
  - (XI) classroom progress examination for Driver Education II; and
  - (XII) in-car laboratory, including:
    - (-a-) initial assessment of trainee's driving skills by instructor trainer;
    - (-b-) observation of in-car teaching techniques as given by a

licensed instructor;

- (-c-) practice of instructor risk-management and emergency procedures, including taking control of the vehicle under the supervision and observation of a licensed instructor;
- (-d-) in-car trainee student teaching under the supervision and observation of a licensed instructor; and
- (-e-) trainee in-car student teaching final progress assessment under the supervision and observation of a licensed instructor.

(B) Nine-semester-hour instructor development course. The driver education instructor development program instructional objectives must be equivalent to 9 semester hours or 135 clock hours of driver and traffic safety education instructor training and shall include:

- (i) all requirements set forth in subparagraph (A); and
- (ii) Driver Education III--minimum of 45 clock hours. Instructional objectives: the trainee shall acquire the knowledge, skills, and understanding to instruct students in the reduced-risk driving practices in the HTS in accordance with the standards for minor and adult driver education and traffic safety for classroom instruction. Instruction shall address the following topics:
  - (I) overview of Driver Education III;
  - (II) classroom delivery, including the Code, rules, standards, and school administrative procedures;
  - (III) student learning styles;
  - (IV) classroom management and student discipline;
  - (V) classroom lesson planning and designing;
  - (VI) scheduling driver education programs;
  - (VII) proper record keeping and maintenance;
  - (VIII) simulation theory and multicar range instruction;
  - (IX) instructor professional growth;
  - (X) classroom progress examination for Driver Education III; and
  - (XI) classroom laboratory, including:
    - (-a-) observation of classroom teaching techniques as given by a licensed instructor; and
    - (-b-) classroom practice student teaching under the supervision and observation of a licensed instructor.

(C) Supervising instructor development course. The supervising driver education instructor development program instructional objectives must be equivalent to 6 semester hours or

90 clock hours of driver and traffic safety education instructor training and shall include:

- (i) training in administering driver education programs and supervising and administering traffic safety education;
- (ii) Supervising Instructor I--minimum of 45 clock hours. Instructional objectives: the instructor shall acquire the knowledge, skills, and understanding to instruct trainees in the reduced-risk driving practices in the HTS in accordance with the standards for minor and adult driver education and traffic safety. Instruction shall address the following topics:
  - (I) overview of Supervising Instructor I;
  - (II) minor and adult driver education curriculum overview and course goals;
  - (III) rules, codes, and standards for driver education programs;
  - (IV) learning styles;
  - (V) factors that influence learning and habit formation;
  - (VI) vocabulary and communication;
  - (VII) lesson plan development;
  - (VIII) classroom management and student discipline; and
  - (IX) classroom progress examination for Supervising Instructor I; and
- (iii) Supervising Instructor II--minimum of 45 clock hours. Instructional objectives: the instructor shall acquire the knowledge, skills, and understanding to instruct trainees in the reduced-risk driving practices in the HTS in accordance with the standards for minor and adult driver education and traffic safety. Instruction shall address the following topics:
  - (I) overview of Supervising Instructor II;
  - (II) student evaluation and assessment;
  - (III) commentary driving techniques;
  - (IV) in-car debriefing techniques;
  - (V) scheduling driver education programs;
  - (VI) proper record keeping and maintenance;
  - (VII) school and instructor liability and responsibility;
  - (VIII) instructor conduct, including professionalism and public relations;
  - (IX) risk management;
  - (X) simulation theory and multicar range;



- (XI) professional growth;
  - (XII) classroom progress examination for Supervising Instructor II; and
  - (XIII) classroom laboratory, including:
    - (-a-) observation of nine-semester-hour driver education instructor development course classroom teaching techniques as given by a licensed instructor; and
    - (-b-) classroom practice student teaching of a nine-semester-hour driver education instructor development course under the supervision and observation of a licensed instructor.
- (2) Prior to enrolling a student in a driver education instructor development course, the school owner or representative must obtain proof that the student has a high school diploma or equivalent. A copy of the evidence must be placed on file with the school. Further, the school shall obtain and evaluate a current official driving record from the student prior to enrollment. The individual must not have accumulated 6 or more penalty points on a driving record during the preceding 36-month period. The school must use the standards for assessing penalty points for convictions of traffic law violations and accident involvements established under Texas Transportation Code, Chapter 708, Subchapter B.
- (3) Instruction records shall be maintained by the school for each instructor trainee and shall be available for inspection by authorized division representatives at any time during the training period and/or for license investigation purposes. The instruction record shall include the trainee's name, address, driver's license number, and other pertinent data; name and instructor license number of the person conducting the training; and dates of instruction, lesson time, and subject taught during each instruction period. Each record shall also include grades or other means of indicating the trainee's aptitude and development. Upon satisfactory completion of the training course, the supervising teacher conducting the training will certify one copy of the instruction record for attachment to the trainee's application for licensing, and one copy will be maintained in a permanent file at the school.
- (4) All student instruction records submitted for the approved instructor development courses shall be original documents.
- (5) A properly licensed supervising driver education teacher or supervising teaching assistant-full shall teach the 6-semester-hour, 9-semester-hour, and supervising instructor development courses. The supervising teacher may allow a driver education teacher, teaching assistant-full, or teaching assistant to provide training under the direction of the supervising teacher in areas appropriate for their level of certification and/or licensure. The supervising teacher is responsible for certifying all instruction conducted by the driver education teacher, teaching assistant-full, or teaching assistant, including independent study and research assignments, which shall not exceed 25% of the total training program time.
- (d) This subsection contains requirements for driver education continuing education courses.
- (1) Driver education school owners may receive an approval for a four-hour continuing education course and provide the approved course to instructors to ensure that instructors meet the requirements for continuing education.
  - (2) The request for course approval shall contain the following:
    - (A) a description of the plan by which the course will be presented;

- (B) the subject of each unit;
  - (C) the educational objectives of each unit;
  - (D) time to be dedicated to each unit;
  - (E) instructional resources for each unit, including names or titles of presenters and facilitators; and
  - (F) a plan by which the school owner will monitor and ensure attendance and completion of the course by the instructions within the guidelines set forth in the course.
- (3) A continuing education course may be approved if the department determines that:
- (A) the course constitutes an organized program of learning that enhances the instructional skills, methods, or knowledge of a licensed driver education instructor;
  - (B) the course pertains to subject matters that relate directly to the practice of driver education instruction, instruction techniques, or driver education-related subjects; and
  - (C) the entire course shall be taught by individuals with recognized experience or expertise in the area of driver education or related subjects. The division may request evidence of the individuals' experience or expertise.
- (4) Driver education school owners may not offer the same continuing education course to instructors each year. In order to continue to offer a course, a new or revised continuing education course shall be submitted to the department for approval.
- (e) A branch school may offer only a course that is approved for the primary school.
- (f) Schools applying for approval of additional courses after the original approval has been granted shall submit the documents designated by the division with the appropriate fee. Courses shall be approved before soliciting students, advertising, or conducting classes. An approval for an additional course shall not be granted if the school's compliance is in question at the time of application.
- (g) If an approved course is discontinued, the division shall be notified within five days of discontinuance and furnished with the names and addresses of any students who could not complete the course because it was discontinued. If the school does not make arrangements satisfactory to the students and the division for the completion of the courses, the full amount of all tuition and fees paid by the students are due and refundable. If arrangements are not made satisfactory to the students and the division, the refunds must be made no later than thirty (30) days after the course was discontinued. Any course discontinued shall be removed from the school's approval.
- (h) If, upon review and consideration of an original, renewal, or amended application for course approval, the department determines that the applicant does not meet the legal requirements, the department shall notify the applicant, setting forth the reasons for denial in writing.
- (i) The department may revoke approval of a school's courses under certain circumstances, including, but not limited to, the following.
- (1) Information contained in the application for the course approval is found to be untrue.
  - (2) The school has failed to maintain the instructors, facilities, equipment, or courses of study on the basis of which approval was issued.
  - (3) The school offers a course which has not been approved or for which there are no instructors or

equipment.

- (4) The school has been found to be in violation of TEC, Chapter 1001, and/or this chapter.

**84.501. Driver Education Course Alternative Method of Instruction.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Approval process. The department may approve an alternative method whereby a driver education school is approved to teach all or part of the classroom portion of an approved driver education course by an alternative method of instruction (AMI) that does not require students to be present in a classroom that meets the following requirements.
- (1) Standards for approval. The department may approve a driver education school to teach all or part of the classroom portion of an approved driver education course by an AMI that does not require students to be present in a classroom only if:
- (A) the AMI includes testing and security measures that the department determines are at least as secure as the measures available in the usual classroom setting;
  - (B) the course satisfies any other requirement applicable to a course in which the classroom portion is taught to students in the usual classroom setting;
  - (C) a student and instructor are in different locations for a majority of the student's instructional period;
  - (D) the AMI instructional activities are integral to the academic program; and
  - (E) extensive communication between a student and instructor and among students is emphasized.
- (2) Application. The school shall submit a completed AMI application along with the appropriate fee. The application for AMI approval shall be treated the same as an application for the approval of a driver education traditional course, and the AMI must deliver the school's approved curriculum as aligned with the Program of Organized Instruction for Driver Education and Traffic Safety.
- (3) School license required. A person or entity offering a classroom driver education course to Texas students by an AMI must hold a driver education school license. The driver education school is responsible for the operation of the AMI.
- (b) Course content. The AMI must deliver the same topics, sequence, and course content as the school's approved traditional driver education course.
- (1) Course topics. The time requirements for the course content described in §84.500 (a) and (b)(1)(C) (relating to Courses of Instruction) shall be met.
- (2) Editing. The material presented in the AMI shall be edited for grammar, punctuation, and spelling and be of such quality that it does not detract from the subject matter.
- (3) Irrelevant material. Advertisement of goods and services shall not appear during the actual instructional times of the course. Distracting material that is not related to the topic being presented shall not appear during the actual instructional times of the course.
- (4) Student breaks. The AMI is allowed 5 minutes of break per instructional hour for all phases, for a total of 160 minutes of break time. No more than ten minutes of break time may be accumulated for each two hours of instruction.

- (5) Minimum content. The AMI shall present sufficient instructional content so that it would take a student a minimum of 32 hours (1,920 minutes) to complete the course. A course that demonstrates that it contains 1,760 minutes of instructional content shall mandate that students take 160 minutes of break time or provide additional educational content for a total of 1,920 minutes (32 hours). In order to demonstrate that the AMI contains sufficient content, the AMI shall use the following methods.
- (A) Word count. For written material that is read by the student, the total number of words in the written sections of the course shall be divided by 180. The result is the time associated with the written material for the sections.
  - (B) Multimedia presentations. There shall be a minimum of 120 minutes of multimedia presentation. The school owner shall calculate the total amount of time it takes for all multimedia presentations to play, not to exceed 640 minutes.
  - (C) Charts and graphs. The AMI may assign one minute for each chart or graph.
  - (D) Examinations. The school owner may allocate up to 60 seconds for questions presented over the Internet and 30 seconds for questions presented by telephone.
  - (E) Total time calculation. If the sum of the time associated with the written course material, the total amount of time for all multimedia presentations, and the time associated with all charts, graphs, and breaks equals or exceeds the minimum 1,920 minutes, the AMI has demonstrated the required amount of content.
  - (F) Alternate time calculation method. In lieu of the time calculation method, the AMI may submit alternate methodology to demonstrate that the AMI meets the minimum 32-hour requirement.
- (6) Academic integrity. The academic integrity of the AMI for a classroom driver education course shall include:
- (A) goals and objectives that are measurable and clearly state what the participants should know or be able to do at the end of the course;
  - (B) a clear, complete driver education classroom course overview and syllabus;
  - (C) content and assignments that are of sufficient rigor, depth, and breadth to teach the standards being addressed;
  - (D) literacy and communication skills that are incorporated and taught as an integral part of the AMI;
  - (E) sufficient learning resources and materials to increase student success available to students before the AMI begins;
  - (F) instruction requirements that are consistent with course goals, representative of the scope of the course, and clearly stated;
  - (G) communication processes that are provided to students, parents, and mentors on how to communicate with the school and instructor, including information on the process for these communications and for timely and frequent feedback about student progress;
  - (H) information addressing issues associated with the use of copyrighted materials; and
  - (I) if online, clearly stated academic integrity and netiquette (Internet etiquette) expectations

regarding lesson activities, discussions, e-mail communications, and plagiarism.

- (7) Instructional design. Instructional design of AMI for classroom driver education shall:
  - (A) include a clear understanding of student needs and incorporate varied ways to learn and multiple levels of mastery of the curriculum;
  - (B) ensure each lesson includes a lesson overview, objectives, resources, content and activities, assignments, and assessments to provide multiple learning opportunities for students to master the content;
  - (C) include concepts and skills that students will retain over time;
  - (D) include activities that engage students in active learning;
  - (E) include the instructor engaging students in learning activities that address a variety of learning styles and preferences to master course content;
  - (F) include instruction that provides opportunities for students to engage in higher-order thinking, critical-reasoning activities, and thinking in increasingly complex ways;
  - (G) include a statement that notifies the student of the school owner's security and privacy policy regarding student data, including personal and financial data; and
  - (H) include assessment and assignment answers and explanations.
- (c) Personal validation. The AMI shall maintain a method to validate the identity of the person taking the course. The personal validation system shall incorporate one of the following requirements.
  - (1) School initiated method. Upon approval by the department, the AMI may use a method that includes testing and security measures that are at least as secure as the methods available in the traditional classroom setting.
  - (2) Third party data method. The online course shall ask a minimum of sixty (60) personal validation questions randomly throughout the course from a bank of at least 200 questions drawn from a third party data source.
    - (A) Time to respond. The student must correctly answer the personal validation question within sixty (60) seconds for questions presented over the Internet and 30 seconds for questions presented by telephone.
    - (B) Placement of questions. At least one personal validation question shall appear in each major unit or section, not including the final examination.
    - (C) Exclusion from the course. The AMI shall exclude the student from the course after the student has incorrectly answered more than 30% of the personal validation questions.
    - (D) Correction of answer. The school may correct an answer to a personal validation question for a student who inadvertently missed a personal validation question. In such a case, the student record shall include a record of both answers and an explanation of the reasons why the answer was corrected.
- (d) Content validation. The AMI shall incorporate a course content validation process that verifies student participation and comprehension of course material, including the following.
  - (1) Timers. The AMI shall include built-in timers to ensure that 1,920 minutes of instruction have

been attended and completed by the student.

- (2) Testing the student's participation in multimedia presentations. The AMI shall ask at least 1 course validation question following each multimedia clip of more than sixty (60) seconds.
  - (A) Test bank. For each multimedia presentation that exceeds sixty (60) seconds, the AMI shall have a test bank of at least 4 questions.
  - (B) Question difficulty. The question shall be short answer, multiple choice, essay, or a combination of these forms. The question shall be difficult enough that the answer may not be easily determined without having viewed the actual multimedia clip.
  - (C) Failure criteria. If the student fails to answer the question correctly, the AMI shall either require the student to view the multimedia clip again or the AMI shall fail the student from the course. If the AMI requires the student to view the multimedia clip again, the AMI shall present a different question from its test bank for that multimedia clip. The AMI may not repeat a question until it has asked all the questions from its test bank.
  - (D) Answer identification. The AMI shall not identify the correct answer to the multimedia question.
- (3) Mastery of course content. The AMI shall test the student's mastery of the course content by asking questions from each of the modules listed in the program of organized instruction for driver education and traffic safety.
  - (A) Test bank. The test bank for course content mastery questions shall include at least:
    - (i) 20 questions from each of modules 1, 8, and 12 listed in the program of organized instruction for driver education and traffic safety; and
    - (ii) 10 questions from each of the remaining modules.
  - (B) Placement of questions. The mastery of course content questions shall be asked at the end of each module.
  - (C) Question difficulty. Course content mastery questions shall be of such difficulty that the answer may not be easily determined without having participated in the actual instruction.
- (4) Repeat and retest options. The AMI may use the following options for students who fail an examination to show mastery of course content.
  - (A) Repeat the failed module. If the student misses more than 30% of the questions asked on a module examination, the AMI shall require that the student take the module again. The correct answer to missed questions may not be disclosed to the student (except as part of course content). At the end of the module, the AMI shall again test the student's mastery of the material. The AMI shall present different questions from its test bank until all the applicable questions have been asked. The student may repeat this procedure an unlimited number of times.
  - (B) Retest the final examination. If the student misses more than 30% of the questions asked on the final examination, the AMI shall retest the student in the same manner as the failed examination, using different questions from its test bank. If the student fails the same unit examination or the comprehensive final examination three times, the student shall fail the course.

- (e) Student records. The AMI shall provide for the creation and maintenance of the records documenting student enrollment, the verification of the student's identity, and the testing of the student's mastery of the course material. The school shall ensure that the student record is readily, securely, and reliably available for inspection by a department-authorized representative. The student records shall contain all information required in §84.81 (relating to Recordkeeping Requirements) and the following information.
  - (1) A record of all questions asked and the student's responses.
  - (2) The name or identity number of the staff member entering comments or revalidating the student.
  - (3) The name or identity number of the staff member retesting the student.
  - (4) If any answer to a question is changed by the school for a student who inadvertently missed a question, the school shall provide both answers and a reasonable explanation for the change.
  - (5) A record of the time the student spent in each unit of the AMI and the total instructional time the student spent in the course.
- (f) Additional requirements for Internet courses. Courses delivered via the Internet or technology shall also comply with the following requirements.
  - (1) An AMI may allow the student re-entry into the course by username and password authentication or other means that are equally secure.
  - (2) The student shall be provided orientation training to ensure easy and logical navigation through the course. The student shall be allowed to freely browse previously completed material.
  - (3) The video and audio shall be clear and, when applicable, the video and audio shall be synchronized.
  - (4) If the AMI presents transcripts of a video presentation, the transcript shall be delivered concurrently with the video stream so that the transcript cannot be displayed if the video does not display on the student's computer.
  - (5) Each school offering an AMI must offer that AMI from a single domain. The AMI may accept students that are redirected to the AMI's domain, as long as the school license number appears on the source that redirects the student to the AMI domain. The student must be redirected to a webpage that clearly identifies the licensed school offering the AMI before the student begins the registration process, supplies any information, or pays for the course.
  - (6) Hardware, web browser, and software requirements must be specified.
  - (7) Prerequisite skills in the use of technology must be identified.
  - (8) Appropriate content-specific tools and software must be used.
  - (9) Universal design principles that ensure access for all students must be used.
  - (10) Online textbooks and other instructional materials used in an AMI must meet state standards.
  - (11) The school must offer the course instructor, school director, and school owner assistance with technical support and course management.
- (g) Additional requirements for video courses.
  - (1) Delivery of the material. For AMIs delivered by the use of videotape, digital video disc (DVD),

film, or similar media, the equipment and course materials may only be made available through a process that is approved by the department.

- (2) Video requirement. The video course shall include between 60 and 640 minutes of video that is relevant to the required topics such as video produced by other entities for training purposes, including public safety announcements and B roll footage. The remainder of the 1,760 minutes of required instruction shall be video material that is relevant to required course instruction content.
  - (A) A video AMI shall ask, at a minimum, at least 1 course validation question for each multimedia clip of more than sixty (60) seconds.
  - (B) A video AMI shall devise and submit for approval a method for ensuring that a student correctly answers questions concerning the multimedia clips of more than sixty (60) seconds.
- (h) Standards for AMIs using new technology. For AMIs delivered using technologies that have not been previously reviewed and approved by the department, the department may apply similar standards as appropriate and may also require additional standards. These standards shall be designed to ensure that the course can be taught by the alternative method and that the alternative method includes testing and security measures that are at least as secure as the methods available in the usual classroom setting.
- (i) Modifications to the AMI. Except as provided by paragraph (1), a change to a previously approved AMI shall not be made without the prior approval of the department. The licensed school for the approved course on which the AMI is based shall ensure that any modification to the AMI is implemented by all schools endorsed to offer the AMI.
  - (1) A school may submit to the department a request for immediate implementation of a proposed change that is insignificant or that protects the interest of the consumer such that immediate implementation is warranted. The request shall include:
    - (A) a complete description of the proposed change;
    - (B) the reason for the change;
    - (C) the reason the requestor believes the proposed change is insignificant or protects the interest of the consumer such that immediate implementation is warranted; and
    - (D) an explanation of how the change will maintain the course or AMI in compliance with state law and the rules specified in this chapter.
  - (2) The department may request additional information regarding a proposed change from the school making a request under paragraph (1).
  - (3) The department will respond to any request made under paragraph (1), within five (5) working days of receipt.
    - (A) If the department determines that the proposed change is insignificant or protects the interest of the consumer such that immediate implementation is warranted, the requestor may immediately implement the change. The licensed school for the approved course on which the AMI is based shall ensure that the change is implemented.
    - (B) If the department determines that the proposed change is neither insignificant nor protects the interest of the consumer such that immediate implementation is warranted, the department shall notify the requestor of that determination and the change may not be made unless the department approves the change following a complete review.



- (4) A determination by the department to allow immediate implementation under paragraph (1), does not constitute final approval by the department of the change. The department reserves the right to conduct further review after the change is implemented and to grant or deny final approval based on whether the change complies with state law and rules specified in this chapter.
- (5) If, following further review, a change in an AMI that has been immediately implemented pursuant to paragraph (1), is determined not to be in compliance with state law and rules specified in this chapter, the department.
  - (A) shall notify the course provider affected by the change of:
    - (i) the specific provisions of state law or rules with which the AMI change is not in compliance; and
    - (ii) a reasonable date by which the AMI must be brought into compliance;
  - (B) shall not, for the period between the implementation of the change and the date specified under subparagraph (A)(ii):
    - (i) seek any penalty relating to the non-compliance;
    - (ii) take any action to revoke or deny renewal of a license of a school or course provider based on the change; or
    - (iii) withdraw approval of a course or AMI based on the change; and
  - (C) is not required to specify the method or manner by which the school alters the AMI to come into compliance with state law and the rules in this chapter.
- (6) If the department allows immediate implementation pursuant to paragraph (1), and later determines that the description of the change or the request was misleading, materially inaccurate, not substantially complete, or not made in good faith, paragraph (5)(B) does not apply.
- (7) A school who immediately implements a change pursuant to paragraph (1) and fails to bring the AMI into compliance prior to the date allowed under paragraph (5)(A)(ii) may be determined to be in violation of state law or the rules in this chapter after that date.
- (8) A school that immediately implements a change under paragraph (1) assumes the risk of final approval being denied and of being required to come into compliance with state law and the rules in this chapter prior to the date allowed under paragraph (5)(A)(ii), including bearing the cost of reversing the change or otherwise modifying the AMI to come into compliance with state law and the rules in this chapter.
- (j) Termination of the school's operation. Upon termination, schools shall deliver any missing student data to the department within five days of termination.
- (k) Renewal of AMI approval. The AMI approval must be renewed and updated to ensure timeliness every two years. The renewal document due date shall be March 1, 2012, and every two years thereafter.
  - (1) For approval, the school shall:
    - (A) update all the statistical data, references to law, and traffic safety methodology with the latest available data; and
    - (B) submit a statement of assurance that the AMI has been updated to reflect the latest applicable laws and statistics.

- (2) Failure to make necessary changes or to submit a statement of assurance documenting those changes shall be cause for revocation of the AMI approval.
- (3) The department may alter the due date of the renewal documents by giving the approved AMI six months notice. The department may alter the due date in order to ensure that the AMI is updated six months after the effective date of new state laws passed by the Texas Legislature.
- (l) Access to instructor. The school must establish hours that the student may access the instructor. With the exception of circumstances beyond the control of the school, the student shall have access to the instructor during the specified hours.
- (m) Enrollment guidelines. The AMI for driver education classroom that desires to instruct students age 14 to under 25 years of age shall provide the same beginning and ending dates for each student in the same class of 36 or less. No student shall be allowed to enroll and start the classroom phase after the sixth hour of classroom instruction has been completed.
- (n) Required training. The instructor must meet the professional teaching standard established by a state licensing agency or have academic credentials in the field in which he or she is teaching and must have been trained to teach the AMI classroom driver education course. Each instructor of an AMI classroom driver education course offered by a driver education school must:
  - (1) have a ST, DET, STA-F, or TA-F driver education license; and
  - (2) successfully complete the appropriate professional development course before teaching an AMI classroom driver education course.

**84.502. Driving Safety Courses of Instruction.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400; amended effective March 15, 2018, 43 TexReg 1431; amended effective July 1, 2018, 43 TexReg 3875)*

- (a) This section contains requirements for driving safety, continuing education, and instructor development courses. For each course, the following curriculum documents and materials are required to be submitted as part of the application for approval. Except as provided by §84.504, relating to Driving Safety Course Alternative Delivery Method), all course content shall be delivered under the direct observation of a licensed instructor. Courses of instruction shall not be approved that contain language that a reasonable and prudent individual would consider inappropriate. Any changes and updates to a course shall be submitted by the course provider and approved prior to being offered. Approval will be revoked for any course that meets the definition of inactive as defined in §84.2(16) of this chapter.
  - (1) Driving safety courses.
    - (A) Educational objectives. The educational objectives of driving safety courses shall include, but not be limited to promoting respect for and encouraging observance of traffic laws and traffic safety responsibilities of drivers and citizens; implementation of law enforcement procedures for traffic stops in accordance with the provisions of the Community Safety Education Act (Senate Bill 30, 85<sup>th</sup> Regular Legislature); the proper use of child passenger safety seat systems; reducing traffic violations; reducing traffic-related injuries, deaths, and economic losses; and motivating continuing development of traffic-related competencies.
    - (B) Driving safety course content guides. A course content guide is a description of the content of the course and the techniques of instruction that will be used to present the course. For courses offered in languages other than English, the course owner shall provide a copy of the student verification of course completion document and/or enrollment contract, student instructional materials, final examination, and evaluation in the proposed language. To be approved, each course owner shall submit as part of the

application a course content guide that includes the following:

- (i) a statement of the course's traffic safety goal and philosophy;
- (ii) a statement of policies and administrative provisions related to instructor conduct, standards, and performance;
- (iii) a statement of policies and administrative provisions related to student progress, attendance, makeup, and conduct. The policies and administrative provisions shall be used by each school that offers the course and include the following requirements:
  - (I) progress standards that meet the requirements of subparagraph (F);
  - (II) appropriate standards to ascertain the attendance of students. All schools approved to use the course must use the same standards for documenting attendance to include the hours scheduled each day and each hour not attended;
  - (III) if the student does not complete the entire course, including all makeup lessons, within the timeline specified by the court, no credit for instruction shall be granted;
  - (IV) any period of absence for any portion of instruction will require that the student complete that portion of instruction. All makeup lessons must be equivalent in length and content to the instruction missed and taught by a licensed instructor; and
  - (V) conditions for dismissal and conditions for re-entry of those students dismissed for violating the conduct policy;
- (iv) a statement of policy addressing entrance requirements and special conditions of students such as the inability to read, language barriers, and other disabilities;
- (v) a list of relevant instructional resources such as textbooks, audio and visual media and other instructional materials, and equipment that will be used in the course and the furniture deemed necessary to accommodate the students in the course such as tables, chairs, and other furnishings. The course shall include a minimum of 60 minutes of audio/video materials relevant to the required topics; however, the audio/video materials shall not be used in excess of 150 minutes of the 300 minutes of instruction. The resources may be included in a single list or may appear at the end of each instructional unit;
- (vi) written or printed materials to be provided for use by each student as a guide to the course. The division may make exceptions to this requirement on an individual basis;
- (vii) instructional activities to be used to present the material (lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions, etc.). When small-group discussions are planned, the course content guide shall identify the questions that will be assigned to the groups;
- (viii) instructional resources for each unit;
- (ix) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student

comprehension levels, they shall be included in the course guide. The evaluative technique may be used throughout the unit or at the end; and

- (x) a completed form cross-referencing the instructional units to the topics identified in subparagraph (D). A form to cross-reference the instructional units to the required topics and topics unique to the course will be provided by the division.
- (C) Course and time management. Approved driving safety courses shall be presented in compliance with the following guidelines and shall include statistical information drawn from data maintained by the Texas Department of Transportation or National Highway Traffic Safety Administration.
- (i) A minimum of 300 minutes of instruction is required.
  - (ii) The total length of the course shall consist of a minimum of 360 minutes.
  - (iii) Sixty (60) minutes of time, exclusive of the 300 minutes of instruction, shall be dedicated to break periods or to the topics included in the minimum course content. All break periods shall be provided after instruction has begun and before the comprehensive examination and summation.
  - (iv) Administrative procedures such as enrollment shall not be included in the 300 minutes of the course.
  - (v) Courses conducted in a single day in a traditional classroom setting shall allow a minimum of 30 minutes for lunch.
  - (vi) Courses taught over a period longer than one day shall provide breaks on a schedule equitable to those prescribed for one-day courses. However, all breaks shall be provided after the course introduction and prior to the last unit of the instructional day or the comprehensive examination and summation, whichever is appropriate.
  - (vii) The order of topics shall be approved by the department as part of the course approval, and for each student, the course shall be taught in the order identified in the approved application.
  - (viii) Students shall not receive a uniform certificate of course completion unless that student receives a grade of at least 70% on the final examination.
  - (ix) In a traditional classroom setting, there must be sufficient seating for the number of students, arranged so that all students are able to view, hear, and comprehend all instructional aids and the class shall have no more than 50 students.
  - (x) The driving safety instructor or school shall make a material effort to establish the identity of the student.
- (D) Minimum course content. Driving Safety course content, including video and multimedia, shall include current statistical data, references to law, driving procedures, and traffic safety methodology. A driving safety course shall include, as a minimum, materials adequate to assure the student masters the following.
- (i) Course introduction--minimum of ten minutes (instructional objective--to orient students to the class). Instruction shall address the following topics:
    - (I) purpose and benefits of the course;

- (II) course and facilities orientation;
  - (III) requirements for receiving course credit;
  - (IV) student course evaluation procedures; and
  - (V) Department-provided information on course content.
- (ii) The traffic safety problem--minimum of 15 minutes (instructional objectives--to develop an understanding of the nature of the traffic safety problem and to instill in each student a sense of responsibility for its solution). Instruction shall address the following topics:
- (I) identification of the overall traffic problem in the United States, Texas, and the locale where the course is being taught;
  - (II) death, injuries, and economic losses resulting from motor vehicle crashes in Texas; and
  - (III) the top five contributing factors of motor vehicle crashes in Texas as identified by the Texas Department of Transportation.
- (iii) Factors influencing driver performance--minimum of 20 minutes (instructional objective--to identify the characteristics and behaviors of drivers and how they affect driving performance). Instruction shall address the following topics:
- (I) attitudes, habits, feelings, and emotions (aggressive driving, etc.);
  - (II) alcohol and other drugs;
  - (III) physical condition (drowsy driving, etc.);
  - (IV) knowledge of driving laws and procedures; and
  - (V) understanding the driving task.
- (iv) Traffic laws and procedures--minimum of 30 minutes (instructional objectives--to identify the requirements of, and the rationale for, applicable driving laws and procedures and to influence drivers to comply with the laws on a voluntary basis). Instruction shall address the following topics:
- (I) passing;
  - (II) right-of-way;
  - (III) turns;
  - (IV) stops;
  - (V) speed limits;
  - (VI) railroad crossings safety, including statistics, causes, and evasive actions;
  - (VII) categories of traffic signs, signals, and highway markings;

- (VIII) pedestrians;
  - (IX) improved shoulders;
  - (X) intersections;
  - (XI) occupant restraints;
  - (XII) anatomical gifts;
  - (XIII) litter prevention;
  - (XIV) law enforcement and emergency vehicles (this category will be temporary until the need is substantiated by documentation from the Department of Public Safety on the number of deaths or injuries involved because of improper procedures used by a citizen when stopped by a law enforcement officer);
  - (XV) law enforcement procedures for traffic stops in accordance with the provisions of the Community Safety Education Act (Senate Bill 30, 85<sup>th</sup> Regular Legislature); and
  - (XVI) other laws as applicable (i.e., financial responsibility/compulsory insurance).
- (v) Special skills for difficult driving environments--minimum of 20 minutes (instructional objectives--to identify how special conditions affect driver and vehicle performance and identify techniques for management of these conditions). Instruction shall address the following topics:
- (I) inclement weather;
  - (II) traffic congestion;
  - (III) city, urban, rural, and expressway environments;
  - (IV) reduced visibility conditions--hills, fog, curves, light conditions (darkness, glare, etc.), etc.; and
  - (V) roadway conditions.
- (vi) Physical forces that influence driver control--minimum of 15 minutes (instructional objective--to identify the physical forces that affect driver control and vehicle performance). Instruction shall address the following topics:
- (I) speed control (acceleration, deceleration, etc.);
  - (II) traction (friction, hydroplaning, stopping distances, centrifugal force, etc.); and
  - (III) force of impact (momentum, kinetic energy, inertia, etc.).
- (vii) Perceptual skills needed for driving--minimum of 20 minutes (instructional objective--to identify the factors of perception and how the factors affect driver performance). Instruction shall address the following topics:

- (I) visual interpretations;
  - (II) hearing;
  - (III) touch;
  - (IV) smell;
  - (V) reaction abilities (simple and complex); and
  - (VI) judging speed and distance.
- (viii) Defensive driving strategies--minimum of 40 minutes (instructional objective--to identify the concepts of defensive driving and demonstrate how they can be employed by drivers to reduce the likelihood of crashes, deaths, injuries, and economic losses). Instruction shall address the following topics:
- (I) trip planning;
  - (II) evaluating the traffic environment;
  - (III) anticipating the actions of others;
  - (IV) decision making;
  - (V) implementing necessary maneuvers;
  - (VI) compensating for the mistakes of other drivers;
  - (VII) avoiding common driving errors;
  - (VIII) interaction with other road users (motorcycles, bicycles, trucks, pedestrians, etc.);
  - (IX) motorcycle awareness, including the dangers of failing to yield the right-of-way to a motorcyclist and the need to share the road with motorcyclist; and
  - (X) distractions relating to the effect of using a wireless communication device, including texting or engaging in other actions that may distract a driver from the safe or effective operation of a motor vehicle.
- (ix) Driving emergencies--minimum of 40 minutes (instructional objective--to identify common driving emergencies and their countermeasures). Instruction shall address the following topics:
- (I) collision traps (front, rear, and sides);
  - (II) off-road recovery, paths of least resistance; and
  - (III) mechanical malfunctions (tires, brakes, steering, power, lights, etc.).
- (x) Occupant restraints and protective equipment--minimum of 15 minutes (instructional objective--to identify the rationale for having and using occupant restraints and protective equipment). Instruction shall address the following

topics:

- (I) legal aspects;
  - (II) vehicle control;
  - (III) crash protection;
  - (IV) operational principles (active and passive);
  - (V) helmets and other protective equipment
  - (VI) proper use of child passenger safety seat systems; and
  - (VII) dangers involved in locking or leaving children in vehicles unattended.
- (xi) Alcohol and traffic safety--minimum of 40 minutes (instructional objective--to identify the effects of alcohol on roadway users). Instruction shall not address methods to drink and drive but shall address the following topics related to the effects of alcohol on roadway users:
- (I) physiological effects;
  - (II) psychological effects;
  - (III) legal aspects; and
  - (IV) synergistic effects.
- (xii) Comprehensive examination--minimum of five minutes (this shall be the last unit of instruction).
- (xiii) The remaining 30 minutes of instruction shall be allocated to the topics included in the minimum course content or to additional driving safety topics that satisfy the educational objectives of the course.
- (E) Instructor training guides. An instructor training guide contains a description of the plan, training techniques, and curriculum to be used to train instructors to present the concepts of the approved driving safety course described in the applicant's driving safety course content guide. Each course provider shall submit as part of the application an instructor training guide that is bound or hole-punched and placed in a binder and that has a cover and a table of contents. The guide shall include the following:
- (i) a statement of the philosophy and instructional goals of the training course;
  - (ii) a description of the plan to be followed in training instructors. The plan shall include, as a minimum, provisions for the following:
    - (I) instruction of the trainee in the course curriculum;
    - (II) training the trainee in the techniques of instruction that will be used in the course;
    - (III) training the trainee about administrative procedures and course provider policies;



- (IV) demonstration of desirable techniques of instruction by the instructor trainer;
  - (V) a minimum of 15 minutes of instruction of the course curriculum by the trainee under the observation of the instructor trainer as part of the basic training course;
  - (VI) time to be dedicated to each training lesson; and
  - (VII) a minimum of 600 minutes of instruction of the course in a regular approved course under the observation of a licensed instructor trainer. The instructor trainee shall provide instruction for two full courses. It is not mandatory that the two courses be taught as two complete courses; however, every instructional unit shall be taught twice; and
- (iii) instructional units sufficient to address the provisions identified in clause (ii)(I)-(VI). The total time of the units shall contain a minimum of 16 instructional hours. Each instructional unit shall include the following:
- (I) the subject of the unit;
  - (II) the instructional objectives of the unit;
  - (III) time to be dedicated to the unit;
  - (IV) an outline of major concepts to be presented;
  - (V) instructional activities to be used to present the material (i.e., lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions). When small-group discussions are planned, the course guide shall identify the questions that will be assigned to the groups;
  - (VI) instructional resources for each unit; and
  - (VII) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the instructor training guide. The evaluative technique may be used throughout the unit or at the end.
- (F) Examinations. Each course provider shall submit for approval, as part of the application, tests designed to measure the comprehension level of students at the completion of the driving safety course and the instructor training course. The comprehensive examination for each driving safety course must include at least 2 questions from the required units set forth in subparagraph (D)(ii)-(xi), for a total of at least 20 questions. The final examination questions shall be of such difficulty that the answer may not easily be determined without completing the actual instruction. Instructors shall not assist students in answering the final examination questions, but may facilitate alternative testing. Instructors may not be certified or students given credit for the driving safety course unless they score 70% or more on the final test. The course content guide shall identify alternative testing techniques to be used for students with reading, hearing, or learning disabilities and policies for retesting students who score less than 70% on the final examination. The applicant may choose not to provide alternative testing techniques; however, students shall be advised whether the course provides alternative testing prior to enrollment in the course. Test questions may be short answer, multiple choice, essay, or a

combination of these forms.

- (G) Requirements for authorship. The course materials shall be written by individuals or organizations with recognized experience in writing instructional materials.
- (H) Renewal of course approval. The course approval must be renewed every two years. The renewal document due date shall be March 1 of every even numbered calendar year.
  - (i) For approval, the course owner shall update all the course content methodology, procedures, statistical data, and references to law with the latest available data.
  - (ii) The course owner shall submit a Statement of Assurance stating that the course has been updated to reflect the latest applicable laws and statistics.
  - (iii) Failure to make necessary changes or to submit a Statement of Assurance documenting those changes shall be cause for revocation of the course approval.
  - (iv) The commissioner may alter the due date of the renewal documents by giving the approved course six months' notice. The commissioner may alter the due date in order to ensure that the course is updated six months after the effective date of new state laws passed by the Texas Legislature.
- (2) Instructor development courses.
  - (A) If the alternative instructor training in §84.64 (relating to Driving Safety Instructor License Requirements) is not applicable, driving safety instructors shall successfully complete 28 clock hours (50 minutes of instruction in a 60-minute period) in the approved instructor development course for the driving safety course to be taught, under the supervision of a driving safety instructor trainer. Supervision is considered to have occurred when the instructor trainer is present and personally provides the 28 clock hours of training for driving safety instructors, excluding those clock hours approved by department staff that may be presented by a guest speaker or using films and other media that pertain directly to the concepts being taught.
  - (B) Instruction records shall be maintained by the course provider and instructor trainer for each instructor trainee and shall be available for inspection by authorized division representatives at any time during the training period and/or for license investigation purposes. The instruction record shall include the trainee's name, address, driver's license number, and other pertinent data; the name and instructor license number of the person conducting the training; and the dates of instruction, lesson time, and subject taught during each instruction period. Each record shall also include grades or other means of indicating the trainee's aptitude and development. Upon satisfactory completion of the training course, the instructor trainer conducting the training will certify one copy of the instruction record for attachment to the trainee's application for licensing, and one copy will be maintained in a permanent file at the course provider location.
  - (C) All student instruction records submitted for the department-approved instructor development course shall be signed by the course provider. Original documents shall be submitted.
  - (D) Driving safety instructor development courses may be offered at approved classroom facilities of a licensed school which is approved to offer the driving safety course being taught. A properly licensed instructor trainer shall present the course.
  - (E) Applicants shall complete 28 hours of training in the driving safety curriculum that shall be taught. Of the 28 hours, 16 shall cover techniques of instruction and in-depth

familiarization with materials contained in the driving safety curriculum. The additional 12 hours shall consist of practical teaching with students and shall occur after the first 16 hours have been completed.

- (F) The driving safety course provider shall submit dates of instructor development course offerings for the 16-hour training that covers techniques of instruction and in-depth familiarization with the material contained in the driving safety curriculum, locations, class schedules, and scheduled instructor trainers' names and license numbers before the courses are offered. The 12-hour practical-teaching portion of the instructor development course shall be provided at properly licensed schools or classrooms approved to offer the course being provided.

(3) Continuing education courses.

- (A) Each course provider will be responsible for receiving an approval for a minimum of a two-hour continuing education course. Each instructor currently endorsed to teach the course must attend the approved continuing education course conducted by the course provider.
- (B) The request for course approval shall contain the following:
  - (i) a description of the plan by which the course will be presented;
  - (ii) the subject of each unit;
  - (iii) the instructional objectives of each unit;
  - (iv) time to be dedicated to each unit;
  - (v) instructional resources for each unit, including names or titles of presenters and facilitators;
  - (vi) any information that the department mandates to promote the quality of the education being provided; and
  - (vii) a plan by which the course provider will monitor and ensure attendance and completion of the course by the instructions within the guidelines set forth in the course.
- (C) A continuing education course may be approved if the department determines that:
  - (i) the course is designed to enhance the instructional skills, methods, or knowledge of the driving safety instructor;
  - (ii) the course pertains to subject matters that relate directly to driving safety instruction, instruction techniques, or driving safety-related subjects;
  - (iii) the course has been designed, planned, and organized by the course provider. The course provider shall use licensed driving safety instructors to provide instruction or other individuals with recognized experience or expertise in the area of driving safety instruction or driving safety-related subject matters. Evidence of the individuals' experience or expertise may be requested by the division;
  - (iv) the course contains updates or approved revisions to the driving safety course curriculum, policies or procedures, and/or any changes to the course, that are

affected by changes in traffic laws or statistical data; and

- (v) any technology used to present a continuing education course meets reasonable standards for determining attendance, security, and testing.
- (b) Course providers shall submit documentation on behalf of schools applying for approval of additional courses after the original approval has been granted. The documents shall be designated by the division and include the appropriate fee. Courses shall be approved before soliciting students, advertising, or conducting classes. An approval for an additional course shall not be granted if the school's compliance is in question at the time of application.
- (c) If an approved course is discontinued, the division shall be notified within five days of discontinuance and furnished with the names and addresses of any students who could not complete the course because it was discontinued. If the school does not make arrangements satisfactory to the students and the division for the completion of the courses, the full amount of all tuition and fees paid by the students are due and refundable. If arrangements are not made satisfactory to the students and the division, the refunds must be made no later than 30 days after the course was discontinued. Any course discontinued shall be removed from the list of approved courses.
- (d) If, upon review and consideration of an original, renewal, or amended application for course approval, the department determines that the applicant does not meet the legal requirements, the commissioner shall notify the applicant, setting forth the reasons for denial in writing.
- (e) The department may revoke approval of any course given to a course owner, provider, or school under any of the following circumstances.
  - (1) Any information contained in the application for the course approval is found to be untrue.
  - (2) The school has failed to maintain the faculty, facilities, equipment, or courses of study on the basis of which approval was issued.
  - (3) The school and/or course provider has been found to be in violation of the Code, and/or this chapter.
  - (4) The course has been found to be ineffective in meeting the educational objectives set forth in subsection (a)(1)(A).

**84.503. Specialized Driving Safety Courses of Instruction.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400; amended effective March 15, 2018, 43 TexReg 1431; amended effective July 1, 2018, 43 TexReg 3875)*

- (a) This section contains requirements for specialized driving safety courses, instructor development courses, and continuing education. For each course, the following curriculum documents and materials are required to be submitted as part of the application for approval. Except as provided by §84.504 of this title (relating to Driving Safety Course Alternative Delivery Method), all course content shall be delivered under the direct observation of a specialized driving safety licensed instructor. Courses of instruction shall not be approved that contain language that a reasonable and prudent individual would consider inappropriate. Any changes and updates to a course shall be submitted and approved prior to being offered. Approval will be revoked for any course that meets the definition of inactive as defined in §84.2(14).
  - (1) Specialized driving safety courses.
    - (A) Educational objectives. The educational objectives of specialized driving safety courses shall include, but not be limited to improving the student's knowledge and use of, compliance with, and attitude toward the use of child passenger safety seat systems and the wearing of seat belt and other occupant restraint systems, and educating the student on the proper law enforcement procedures for traffic stops in accordance with the

provisions of the Community Safety Education Act (Senate Bill 30, 85<sup>th</sup> Regular Legislature).

- (B) Specialized driving safety course content guides. A course content guide is a description of the content of the course and the techniques of instruction that will be used to present the course. For courses offered in languages other than English, the course owner shall provide a copy of the student verification of course completion document and/or contract, student instructional materials, final examination, and evaluation in the proposed language. To be approved, each course owner shall submit as part of the application a course content guide that includes the following:
- (i) a statement of the course's goal and philosophy relative to occupant protection;
  - (ii) a statement of policies and administrative provisions related to instructor conduct, standards, and performance;
  - (iii) a statement of policies and administrative provisions related to student progress, attendance, makeup, and conduct. The policies and administrative provisions shall be used by each school that offers the course and include the following requirements:
    - (I) progress standards that meet the requirements of subparagraph (F);
    - (II) appropriate standards to ascertain the attendance of students. All schools approved to use the course must use the same standards for documenting attendance to include the hours scheduled each day and each hour not attended;
    - (III) appropriate criteria to determine course completion. If the student does not complete the entire course, including all makeup lessons, within the timeline specified by the court, no credit for instruction shall be granted;
    - (IV) provisions for the completion of makeup work. Any period of absence for any portion of instruction will require that the student complete that portion of instruction. All makeup lessons must be equivalent in length and content to the instruction missed and taught by a licensed instructor; and
    - (V) conditions for dismissal and conditions for re-entry of those students dismissed for violating the conduct policy;
  - (iv) a statement of policy addressing entrance requirements and special conditions of students such as the inability to read, language barriers, and other disabilities;
  - (v) a list of relevant instructional resources such as textbooks, audio and visual media and other instructional materials, and equipment that will be used in the course and the furniture deemed necessary to accommodate the students in the course such as tables, chairs, and other furnishings. The course shall include a minimum of 60 minutes of audio/video materials relevant to the required topics; however, the audio/video materials shall not be used in excess of 150 minutes of the 300 minutes of instruction. The resources may be included in a single list or may appear at the end of each instructional unit;
  - (vi) written or printed materials provided for use by each student as a guide to the course. The division may make exceptions to this requirement on an individual

basis;

- (vii) instructional activities to be used to present the material (lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions, etc.). When small-group discussions are planned, the course content guide shall identify the questions that will be assigned to the groups;
  - (viii) instructional resources for each unit;
  - (ix) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the course guide. The evaluative technique may be used throughout the unit or at the end; and
  - (x) a completed form cross-referencing the instructional units to the topics identified in subparagraph (D). A form to cross-reference the instructional units to the required topics and topics unique to the course will be provided by the division.
- (C) Course and time management. Approved specialized driving safety courses shall be presented in compliance with the following guidelines and shall include statistical information drawn from data maintained by the Texas Department of Transportation or National Highway Traffic Safety Administration.
- (i) A minimum of 300 minutes of instruction is required of which at least 200 minutes shall address the use of child passenger safety seat systems and the wearing of seat belt and other occupant restraint systems.
  - (ii) The total length of the course shall consist of a minimum of 360 minutes.
  - (iii) Sixty minutes of time, exclusive of the 300 minutes of instruction, shall be dedicated to break periods or to the topics included in the minimum course content. All break periods shall be provided after instruction has begun and before the comprehensive examination and summation.
  - (iv) Administrative procedures such as enrollment shall not be included in the 300 minutes of the course.
  - (v) Courses conducted in a single day in a traditional classroom setting shall allow a minimum of 30 minutes for lunch.
  - (vi) Courses taught over a period longer than one day shall provide breaks on a schedule equitable to those prescribed for one-day courses. However, all breaks shall be provided after the course introduction and prior to the last unit of the instructional day or the comprehensive examination and summation, whichever is appropriate.
  - (vii) The order of topics shall be approved by the department as part of the course approval, and for each student, the course shall be taught in the order identified in the approved application.
  - (viii) Students shall not receive a uniform certificate of course completion unless that student receives a grade of at least 70% on the final examination.
  - (ix) Specialized driving safety classrooms must have sufficient seating for the number of students, arranged so that all students are able to view, hear, and comprehend all instructional aids and the class shall have no more than 50

students.

- (x) The specialized driving safety instructor or school shall make a material effort to establish the identity of the student.

(D) Minimum course content. A specialized driving safety course shall include, as a minimum, four hours of instruction that encourages the use of child passenger safety seat systems and the wearing of seat belts, etc., and materials adequate to assure the student masters the following.

- (i) Course introduction--minimum of ten minutes (instructional objective--to orient students to the class). Instruction shall address the following topics:
  - (I) purpose and benefits of the course;
  - (II) course and facilities orientation;
  - (III) requirements for receiving course credit; and
  - (IV) student course evaluation procedures.
- (ii) The occupant protection problem--minimum of 15 minutes (instructional objectives--to develop an understanding of Texas occupant protection laws and the national and state goals regarding occupant protection). Instruction shall address the following topics:
  - (I) identification of Texas Occupant Protection Laws;
  - (II) deaths, injuries, and economic losses related to improper use of occupant restraint systems; and
  - (III) national and state goals regarding occupant protection.
- (iii) Factors influencing driver performance--(instructional objective--to identify the characteristics and behaviors of drivers and how they affect driving performance). Instruction shall address the following topics:
  - (I) attitudes, habits, feelings, and emotions;
  - (II) alcohol and other drugs;
  - (III) physical condition;
  - (IV) knowledge of driving laws and procedures including law enforcement procedures for traffic stops in accordance with the provisions of the Community Safety Education Act (Senate Bill 30, 85<sup>th</sup> Regular Legislature); and
  - (V) understanding the driving task.
- (iv) Physical forces that influence driver control--(instructional objective--to identify the physical forces that affect driver control and vehicle performance). Instruction shall address the following topics:
  - (I) speed control (acceleration, deceleration, etc.);

- (II) traction (friction, hydroplaning, stopping distances, centrifugal force, etc.); and
  - (III) force of impact (momentum, kinetic energy, inertia, etc.).
- (v) Perceptual skills needed for driving--(instructional objective--to identify the factors of perception and how the factors affect driver performance). Instruction shall address the following topics:
  - (I) visual interpretations;
  - (II) hearing;
  - (III) touch;
  - (IV) smell;
  - (V) reaction abilities (simple and complex); and
  - (VI) judging speed and distance.
- (vi) Occupant protection equipment--minimum of 25 minutes (instructional objective--to identify the improvements and technological advances in automotive design and construction). Instruction shall address the following topics:
  - (I) anti-lock brakes;
  - (II) traction control devices;
  - (III) suspension control devices;
  - (IV) electronic stability/active handling systems;
  - (V) crumple zones;
  - (VI) door latch improvements;
  - (VII) tempered or safety glass;
  - (VIII) headlights; and
  - (IX) visibility enhancements.
- (vii) Occupant restraint systems--minimum of 40 minutes (instructional objective--to identify the rationale for having and using occupant restraints and protective equipment). Instruction shall address the following topics:
  - (I) safety belts, airbags, and other protective equipment;
  - (II) proper usage and necessary precautions;
  - (III) vehicle control and driver stability;
  - (IV) crash dynamics and protection; and



- (V) operational principles (active versus passive).
- (viii) Child passenger safety--minimum of 120 minutes (instructional objective--to understand the child passenger safety law in Texas; the importance of child safety seats; and the risks to children that are unrestrained or not properly restrained). Instruction shall address the following topics:
  - (I) misconceptions or mistaken ideas regarding child passenger safety;
  - (II) purpose of child safety seats;
  - (III) how to secure the child properly and factors to consider;
  - (IV) child safety seat types and parts;
  - (V) precautions regarding child safety seats;
  - (VI) correct installation of a child safety restraint system;
  - (VII) tips regarding child safety restraint systems; and
  - (VIII) dangers involved in locking or leaving children in vehicles unattended.
- (ix) Comprehensive examination--minimum of five minutes (this shall be the last unit of instruction).
- (x) The remaining 30 minutes of instruction shall be allocated to the topics included in the minimum course content or to additional occupant protection topics that satisfy the educational objectives of the course.
- (E) Instructor training guides. An instructor training guide contains a description of the plan, training techniques, and curriculum to be used to train instructors to present the concepts of the approved specialized driving safety course described in the applicant's specialized driving safety course content guide. Each course provider shall submit as part of the application an instructor training guide that is bound or hole-punched and placed in a binder and that has a cover and a table of contents. The guide shall include the following:
  - (i) a statement of the philosophy and instructional goals of the training course;
  - (ii) a description of the plan to be followed in training instructors. The plan shall include, as a minimum, provisions for the following:
    - (I) instruction of the trainee in the course curriculum;
    - (II) training the trainee in the techniques of instruction that will be used in the course;
    - (III) training the trainee about administrative procedures and course provider policies;
    - (IV) demonstration of desirable techniques of instruction by the instructor trainer;
    - (V) a minimum of 15 minutes of instruction of the course curriculum by the trainee under the observation of the instructor trainer as part of the basic training course;

- (VI) time to be dedicated to each training lesson; and
  - (VII) a minimum of 600 minutes of instruction of the course in a regular approved course under the observation of a licensed specialized driving safety instructor trainer. The instructor trainee shall provide instruction for two full courses. It is not mandatory that the two courses be taught as two complete courses; however, every instructional unit shall be taught twice; and
- (iii) instructional units sufficient to address the provisions identified in clause (ii)(I)-(VI). The total time of the units shall contain a minimum of 16 instructional hours. Each instructional unit shall include the following:
  - (I) the subject of the unit;
  - (II) the instructional objectives of the unit;
  - (III) time to be dedicated to the unit;
  - (IV) an outline of major concepts to be presented;
  - (V) instructional activities to be used to present the material (i.e., lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions). When small-group discussions are planned, the course guide shall identify the questions that will be assigned to the groups;
  - (VI) instructional resources for each unit; and
  - (VII) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the instructor training guide. The evaluative technique may be used throughout the unit or at the end.
- (F) Examinations. Each course provider shall submit for approval, as part of the application, tests designed to measure the comprehension level of students at the completion of the specialized driving safety course and the instructor training course. The comprehensive examination for each specialized driving safety course must include at least two questions from each unit, excluding the course introduction and comprehensive examination units. The final examination questions shall be of such difficulty that the answer may not easily be determined without completing the actual instruction. Instructors shall not assist students in answering the final examination questions unless alternative testing is required. Instructors may not be certified or students given credit for the specialized driving safety course unless they score 70% or more on the final test. The course content guide shall identify alternative testing techniques to be used for students with reading, hearing, or learning disabilities and policies for retesting students who score less than 70% on the final examination. The applicant may choose not to provide alternative testing techniques; however, students shall be advised whether the course provides alternative testing prior to enrollment in the course. Test questions may be short answer, multiple choice, essay, or a combination of these forms.
- (G) Requirements for authorship. The course shall be authored by an individual who possesses a current or past National Highway Traffic Safety Association Child Passenger Safety technician or instructor certificate.

- (2) Specialized driving safety instructor development courses.
- (A) If the alternative instructor training in §84.64 of this chapter (relating to Driving Safety Instructor License Requirements) is not applicable, specialized driving safety instructors shall successfully complete 28 clock hours (50 minutes of instruction in a 60-minute period) in the approved instructor development course for the specialized driving safety course to be taught, under the supervision of a specialized driving safety instructor trainer. Supervision is considered to have occurred when the instructor trainer is present and personally provides the 28 clock hours of training for the instructors, excluding those clock hours approved by department staff that may be presented by a guest speaker or using films and other media that pertain directly to the concepts being taught.
  - (B) Instruction records shall be maintained by the course provider and instructor trainer for each instructor trainee and shall be available for inspection by authorized division representatives at any time during the training period and/or for license investigation purposes. The instruction record shall include the trainee's name, address, driver's license number, and other pertinent data; the name and instructor license number of the person conducting the training; and the dates of instruction, lesson time, and subject taught during each instruction period. Each record shall also include grades or other means of indicating the trainee's aptitude and development. Upon satisfactory completion of the training course the instructor trainer conducting the training will certify one copy of the instruction record for attachment to the trainee's application for licensing and one copy will be maintained in a permanent file at the course provider location.
  - (C) All student instruction records submitted for the department approved specialized driving safety instructor development course shall be signed by the course provider. Original documents shall be submitted.
  - (D) Specialized driving safety instructor development courses may be offered at approved classroom facilities of a licensed school which is approved to offer the specialized course being taught. A properly licensed instructor trainer shall present the course.
  - (E) Applicants shall complete 28 hours of training in the specialized driving safety curriculum that shall be taught. Of the 28 hours, 16 hours shall cover techniques of instruction and in-depth familiarization with materials contained in the specialized driving safety curriculum. The additional 12 hours shall consist of practical teaching with students and shall occur after the first 24 hours have been completed.
  - (F) The course provider shall submit dates of instructor development course offerings for the 16-hour training that covers techniques of instruction and in-depth familiarization with the material contained in the specialized driving safety curriculum, locations, class schedules, and scheduled instructor trainers' names and license numbers before the courses are offered. The 12-hour practical-teaching portion of the instructor development course shall be provided at properly licensed schools or classrooms approved to offer the course being provided.
- (3) Continuing education courses.
- (A) Each course provider will be responsible for receiving an approval for a minimum of a two-hour continuing education course. Each instructor currently endorsed to teach the course must attend the approved continuing education course conducted by the course provider.
  - (B) The request for course approval shall contain the following:

- (i) a description of the plan by which the course will be presented;
  - (ii) the subject of each unit;
  - (iii) the instructional objectives of each unit;
  - (iv) time to be dedicated to each unit;
  - (v) instructional resources for each unit, including names or titles of presenters and facilitators;
  - (vi) any information that the department mandates to ensure quality of the education being provided; and
  - (vii) a plan by which the course provider will monitor and ensure attendance and completion of the course by the instructions within the guidelines set forth in the course.
- (C) A continuing education course may be approved if the department determines that:
- (i) the course constitutes an organized program of learning that enhances the instructional skills, methods, or knowledge of the specialized driving safety instructor;
  - (ii) the course pertains to subject matters that relate directly to driving safety or specialized safety instruction, instruction techniques, or driving safety-related subjects;
  - (iii) the entire course has been designed, planned, and organized by the course provider. The course provider shall use licensed driving safety or specialized driving safety instructors to provide instruction or other individuals with recognized experience or expertise in the area of driving safety or specialized driving safety instruction or driving safety-related subject matters. Evidence of the individuals' experience or expertise may be requested by the division;
  - (iv) the course contains updates or approved revisions to the specialized driving safety course curriculum, policies or procedures, and/or any changes to the course, that are affected by changes in traffic laws or statistical data; and
  - (v) the division determines that any technology used to present a continuing education course meets reasonable standards for determining attendance, security, and testing.
- (b) Course providers shall submit documentation on behalf of schools applying for approval of additional courses after the original approval has been granted. The documents shall be designated by the division and include the appropriate fee. Courses shall be approved before soliciting students, advertising, or conducting classes. An approval for an additional course shall not be granted if the school's compliance is in question at the time of application.
- (c) If an approved course is discontinued, the division shall be notified within five days of discontinuance and furnished with the names and addresses of any students who could not complete the course because it was discontinued. If the school does not make arrangements satisfactory to the students and the division for the completion of the courses, the full amount of all tuition and fees paid by the students are due and refundable. If arrangements are not made satisfactory to the students and the division, the refunds must be made no later than thirty (30) days after the course was discontinued. Any course discontinued shall be removed from the list of approved courses.

- (d) If, upon review and consideration of an original, renewal, or amended application for course approval, the department determines that the applicant does not meet the legal requirements, the commissioner shall notify the applicant, setting forth the reasons for denial in writing.
- (e) The department may revoke approval of any course given to a course owner, provider, or school under any of the following circumstances.
  - (1) Any information contained in the application for the course approval is found to be untrue.
  - (2) The school has failed to maintain the faculty, facilities, equipment, or courses of study on the basis of which approval was issued.
  - (3) The school and/or course provider has been found to be in violation of the Code, and/or this chapter.
  - (4) The course has been found to be ineffective in meeting the educational objectives set forth in subsection (a)(1)(A).

**84.504. Driving Safety Course Alternative Delivery Method.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Approval process. The department may approve an alternative delivery method (ADM) that delivers an approved driving safety course or an approved specialized driving course and meets the following requirements.
  - (1) Standards for approval. The commissioner may approve an ADM for an approved driving safety course or a specialized driving safety course and waive any rules to accomplish this approval if the ADM delivers an approved course in a manner that is at least as secure as a traditional classroom. ADMs that meet the requirements outlined in subsections (b)-(h), shall receive ADM approval.
  - (2) Application. The course provider shall submit a completed ADM application along with the appropriate fee. The application for ADM approval shall be treated the same as an application for the approval of a new course and the ADM must deliver the course provider's approved curriculum as delineated in the course content guide required by §84.502 (relating to Driving Safety Courses of Instruction) and §84.503 (relating to Specialized Driving Safety Courses of Instruction).
  - (3) Incomplete applications. An application that is incomplete may be returned to the applicant along with the application fee.
  - (4) School license required. A person or entity offering a driving safety course or a specialized driving course to Texas students by an alternative delivery method must hold a driving safety school license. The driving safety school is responsible for the operation of the ADM.
  - (5) Course provider endorsement required. The driving safety school must have an endorsement from a licensed course provider.
- (b) Course content. The ADM must deliver the same topics and course content as the approved course.
  - (1) Course topics. The time requirements for each unit and the course as a whole described in §84.502(a)(1)(C) and (D) and §84.503(a)(1)(C) and (D) shall be met.
  - (2) Topic sequence. The ADM sequencing may be different from the approved traditional course as long as the sequencing does not detract from educational value of the course. The ADM owner shall provide a key showing the topic sequence of the traditional course and where the corresponding information appears in the ADM.

- (3) Editing. The material presented in the ADM shall be edited for grammar, punctuation, and spelling and be of such quality that it does not detract from the subject matter.
- (4) Irrelevant material. Advertisement of goods and services shall not appear during the actual instructional times of the course. Distracting material that is not related to the topic being presented shall not appear during the actual instructional times of the course.
- (5) Minimum content. The ADM shall present sufficient content so that it would take a student 300 minutes to complete the course. In order to demonstrate that the ADM contains sufficient content, the ADM shall use the following methods.
  - (A) Word count. For written material that is read by the student, the course provider shall count the total number of words in the written sections of the course. This word count shall be divided by 180, the average number of words that a typical student reads per minute. The result is the time associated with the written material for the sections.
  - (B) Multimedia presentations. For multimedia presentation, the course provider shall calculate the total amount of time it takes for all multimedia presentations to play.
  - (C) Charts and graphs. The ADM may assign one minute for each chart or graph.
  - (D) Examinations. The course provider may allocate up to 90 seconds for questions presented over the Internet and 30 seconds for questions presented by telephone.
  - (E) Total time calculation. If the sum of the time associated with the written course material, the total amount of time for all multimedia presentations, and the time associated with all charts and graphs equals or exceeds 300 minutes, the ADM has demonstrated the required amount of content.
  - (F) Alternate time calculation method. In lieu of the time calculation method, the ADM may submit alternate methodology to demonstrate that the ADM meets the 300-minute requirement.
- (6) Student breaks. A course that demonstrates that it contains 300 minutes of instructional content shall mandate that students take 60 minutes of break time or provide additional educational content for a total of 360 minutes.
- (c) Personal validation. The ADM shall maintain a system to validate the identity of the person taking the course. The personal validation system shall incorporate the following requirements.
  - (1) Personal validation questions. The ADM shall ask a minimum of 10 personal validation questions throughout the course.
  - (2) Third party data sources. The personal validation questions shall be drawn equally from at least two different databases.
  - (3) Time to respond. The student must correctly answer the personal validation question within 90 seconds for questions presented over the Internet and 30 seconds for questions presented by telephone.
  - (4) Placement of questions. At least one personal validation question shall appear in each major unit or section, not including the final examination.
  - (5) Exclusion from the course. The ADM shall exclude the student from the course after the student has incorrectly answered more than 30 percent of the personal validation questions.

- (6) Correction of answer. The school may correct an answer to a personal validation question for a student who inadvertently missed a personal validation question. In such a case, the student record shall include a record of both answers and an explanation of the reasons that the school corrected the answer.
  - (7) Student affidavits. A student for whom third-party database information is available from fewer than two databases (for example, a student with an out-of-state driver's license) may be issued a uniform certificate of completion upon presentation to the course provider of a notarized copy of the student's driver's license or equivalent type of photo identification and a statement from the student certifying that the individual attended and successfully completed the six-hour driving safety or specialized driving safety course for which the certificate is being issued and for which there exists a corresponding student record.
  - (8) Alternative methods. Upon approval by the department the ADM may use alternate methods that are at least as secure as the personal validation question method.
- (d) Content validation. The ADM shall incorporate a course content validation process that verifies student participation and comprehension of course material, including the following.
- (1) Timers. The ADM shall include built-in timers to ensure that 300 minutes of instruction have been attended and completed by the student.
  - (2) Testing the student's participation in multimedia presentations. The ADM shall ask at least 1 course validation question following each multimedia clip of more than 60 seconds.
    - (A) Test bank. For each multimedia presentation that exceeds 60 seconds, the ADM shall have a test bank of at least 4 questions.
    - (B) Question difficulty. The question shall be short answer, multiple choice, essay, or a combination of these forms. The question shall be difficult enough that the answer may not be easily determined without having viewed the actual multimedia clip.
    - (C) Failure criteria. If the student fails to answer the question correctly, the ADM shall either require the student view the multimedia clip again or the ADM shall fail the student from the course. If the ADM requires the student to view the multimedia clip again, the ADM shall present a different question from its test bank for that multimedia clip. The ADM may not repeat a question until it has asked all the questions from its test bank.
    - (D) Answer identification. The ADM shall not identify the correct answer to the multimedia question.
  - (3) Mastery of course content. The ADM shall test the student's mastery of the course content by asking at least two questions from each of the topics listed in §84.502(a)(1)(D)(ii)-(xi) and §84.503(a)(1)(D)(ii)-(viii).
    - (A) Test bank. The test bank for course content mastery questions shall include at least ten questions from each of the topics identified in §84.502(a)(1)(D)(ii)-(xi) and §84.503(a)(1)(D)(ii)-(viii).
    - (B) Placement of questions. The mastery of course content questions shall be asked either at the end of the major unit or section in which the topic identified in §84.502(a)(1)(D)(ii)-(xi) and §84.503(a)(1)(D)(ii)-(viii) is covered (unit examination) or at the end of the course (comprehensive final examination).
    - (C) Question difficulty. Course content mastery questions shall be short answer, multiple

choice, essay, or a combination of these forms, and of such difficulty that the answer may not be easily determined without having participated in the actual instruction.

- (4) Repeat and retest options. The ADM may use either of the following options for students who fail an examination to show mastery of course content, but may not use both in the same ADM.
  - (A) Repeat the failed unit. If the student misses more than 30% of the questions asked on an examination, the ADM shall require that the student take the unit again. All timers shall be reset. The correct answer to missed questions may not be disclosed to the student (except as part of course content). At the end of the unit, the ADM shall again test the student's mastery of the material. The ADM shall present different questions from its test bank until all the applicable questions have been asked. The student may repeat this procedure an unlimited number of times.
  - (B) Retest the student. If the student misses more than 30% of the questions asked on an examination, the ADM shall retest the student in the same manner as the failed examination, using different questions from its test bank. The student is not required to repeat the failed unit, but may be allowed to do so prior to retaking the examination. If the student fails the same unit examination or the comprehensive final examination three times, the student shall fail the course.
- (e) Student records. The ADM shall provide for the creation and maintenance of the records documenting student enrollment, the verification of the student's identity, and the testing of the student's mastery of the course material. Each entry that verifies enrollment, identifies the question asked or the response given, documents retesting and/or revalidation, and documents any changes to the student's record shall include the date and time of the activity reported. The student records shall contain the following information.
  - (1) The student's name and driver's license number.
  - (2) A record of which personal validation questions were asked and the student's responses.
  - (3) A record of which multimedia participation questions were asked and the student's responses.
  - (4) The name or identity number of the staff member entering comments, retesting, or revalidating the student.
  - (5) If any answer to a question is changed by the school or course provider for a student who inadvertently missed a question, the school or course provider shall provide both answers and a reasonable explanation for the change.
  - (6) A record of the course content mastery questions asked and the answers given.
  - (7) A record of the time the student spent in each unit of the ADM and the total instructional time the student spent in the course.
  - (8) The school shall also ensure that the student record is readily, securely, and reliably available for inspection by the department.
- (f) Additional requirements for Internet courses. Courses delivered via the Internet shall also comply with the following requirements.
  - (1) Re-entry into the course. An ADM may allow the student re-entry into the course by username and password authentication or other means that are as secure as username and password authentication.
  - (2) Navigation. The student shall be able to logically navigate through the course. The student shall be



allowed to freely browse previously completed material.

- (3) Audio-visual standards. The video and audio shall be clear and, when applicable, the video and audio shall be synchronized.
  - (4) Video transcripts. If the ADM presents transcripts of a video presentation, the transcript shall be delivered concurrently with the video stream so that the transcript cannot be displayed if the video does not display on the student's computer.
  - (5) Domain names. Each school offering an ADM must offer that ADM from a single domain. The ADM may accept students that are redirected to the ADM's domain, as long as the student is redirected to a webpage that clearly identifies the course provider and school offering the ADM before the student begins the registration process, supplies any information, or pays for the course. Subdomains of the ADM's single domain may also accept students as long as the subdomain is registered to and hosted by the ADM and clearly identifies the official course provider, school name, and department registration number.
  - (6) Course identification. All ADMs presented over the Internet shall display the school name and school number assigned by the department as well as the course provider name and course provider number assigned by the department in the top left-hand portion on the entity's homepage and the registration page used by the student to pay any monies, provide any personal information, and enroll.
- (g) Additional requirements for video courses.
- (1) Delivery of the material. For ADMs delivered by the use of videotape, digital video disc (DVD), film, or similar media, the equipment and course materials may only be made available through a process that is approved by the department.
  - (2) Video requirement. In order to meet the video requirement of §84.502(a)(1)(B)(v), the video course shall include between 60 and 150 minutes of video that is relevant to the required topics such as video produced by other entities for training purposes, including public safety announcements and B roll footage. The remainder of the 300 minutes of required instruction shall be video material that is relevant to 1 of the 11 required topics and produced by the ADM owner, course owner, or course provider specifically for the ADM.
    - (A) A video ADM shall ask, at a minimum, at least 1 course validation question for each multimedia clip of more than 60 seconds at the end of each major segment (chapter) of the ADM.
    - (B) A video ADM shall devise and submit for approval a method for ensuring that a student correctly answers questions concerning the multimedia clips of more than 60 seconds presented during the ADM.
- (h) Standards for ADMs using new technology. For ADMs delivered using technologies that have not been previously reviewed and approved by the department, the department may apply similar standards as appropriate and may also require additional standards. These standards shall be designed to ensure that the course can be taught by the alternative method and that the alternative method includes testing and security measures that are at least as secure as the methods available in the traditional classroom setting.
- (i) Modifications to the ADM. Except as provided by paragraph (1) of this subsection, a change to a previously approved ADM shall not be made without the prior approval of the department. The licensed course provider for the approved course on which the ADM is based shall ensure that any modification to the ADM is implemented by all schools endorsed to offer the ADM.
- (1) A course provider may submit to the department a request for immediate implementation of a

proposed change that is insignificant or that protects the interest of the consumer such that immediate implementation is warranted. The request shall include:

- (A) a complete description of the proposed change;
  - (B) the reason for the change;
  - (C) the reason the requestor believes the proposed change is insignificant or protects the interest of the consumer such that immediate implementation is warranted; and
  - (D) an explanation of how the change will maintain the course or ADM in compliance with state law and the rules specified in this chapter.
- (2) The department may request additional information regarding a proposed change from the course provider making a request under paragraph (1).
- (3) The department will respond to any request made under paragraph (1), within five working days of receipt.
- (A) If the department determines that the proposed change is insignificant or protects the interest of the consumer such that immediate implementation is warranted, the requestor may immediately implement the change. The licensed course provider for the approved course on which the ADM is based shall ensure that the change is implemented by all schools endorsed to offer the ADM.
  - (B) If the department determines that the proposed change is neither insignificant nor protects the interest of the consumer such that immediate implementation is warranted, the department shall notify the requestor of that determination and the change may not be made unless the department approves the change following a complete review.
- (4) A determination by the department to allow immediate implementation under paragraph (1), does not constitute final approval by the department of the change. The department reserves the right to conduct further review after the change is implemented and to grant or deny final approval based on whether the change complies with state law and rules specified in this chapter.
- (5) If, following further review, a change in an ADM that has been immediately implemented pursuant to paragraph (1), is determined not to be in compliance with state law and rules specified in this chapter, the department:
- (A) shall notify the course provider affected by the change of:
    - (i) the specific provisions of state law or rules with which the ADM change is not in compliance; and
    - (ii) a reasonable date by which the ADM must be brought into compliance;
  - (B) shall require the course provider to notify any school endorsed by the course provider of the finding;
  - (C) shall not, for the period between the implementation of the change and the date specified under subparagraph (A)(ii):
    - (i) seek any penalty relating to the non-compliance;
    - (ii) take any action to revoke or deny renewal of a license of a school or course provider based on the change; or

- (iii) withdraw approval of a course or ADM based on the change; and
- (D) is not required to specify the method or manner by which the course provider alters the ADM to come into compliance with state law and the rules in this chapter.
- (6) If the department allows immediate implementation pursuant to paragraph (1) and later determines that the description of the change or the request was misleading, materially inaccurate, not substantially complete, or not made in good faith, paragraph (5)(C) does not apply.
- (7) A course provider who immediately implements a change pursuant to paragraph (1) and fails to bring the ADM into compliance prior to the date allowed under paragraph (5)(A)(ii) may be determined to be in violation of state law or the rules in this chapter after that date.
- (8) A course provider that immediately implements a change under paragraph (1), assumes the risk of final approval being denied and of being required to come into compliance with state law and the rules in this chapter prior to the date allowed under paragraph (5)(A)(ii), including bearing the cost of reversing the change or otherwise modifying the ADM to come into compliance with state law and the rules in this chapter.
- (j) Termination of the school's operation. Upon termination, schools shall deliver any missing student data to the department within five days of termination.
- (k) Renewal of ADM approval. The ADM approval must be renewed every two years. The renewal document due date shall be March 1 of every even numbered calendar year.
  - (1) For approval, the course provider shall:
    - (A) update all the statistical data and references to law with the latest available data; and
    - (B) submit a statement of assurance that the ADM has been updated to reflect the latest applicable laws and statistics.
  - (2) Failure to make necessary changes or to submit a statement of assurance documenting those changes shall be cause for revocation of the ADM approval.
  - (3) The commissioner may alter the due date of the renewal documents by giving the approved ADM six months' notice. The commissioner may alter the due date in order to ensure that the ADM is updated six months after the effective date of new state laws passed by the Texas Legislature.
- (l) Access to instructor. With the exception of circumstances beyond the control of the school, the student shall have adequate access (on the average, within two minutes) to both a licensed instructor and telephonic technical assistance (help desk) throughout the course such that the flow of instructional information is not delayed.

**84.505. Drug and Alcohol Driving Awareness Programs of Instruction.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) This section contains requirements for drug and alcohol driving awareness programs and instructor development programs. For each program, the following curriculum documents and materials are required to be submitted as part of the application for approval. All program content shall be delivered under the direct observation of a licensed instructor. Programs of instruction shall not be approved which contain language that a reasonable person would consider inappropriate. Any changes and updates to a program shall be submitted and approved prior to being offered.
  - (1) Drug and alcohol driving awareness programs.

- (A) Educational objectives. The educational objectives of drug and alcohol driving awareness programs shall include, but not be limited to: educating participants on the risks associated with alcohol or other drug use/abuse and problems associated with such use; providing information on the physiological and psychological effects of alcohol and drugs, legal aspects of alcohol and drug use; the effects of alcohol and drugs on the driving task; signs of abuse; and assisting participants in developing a plan to reduce the probability that they will be involved in alcohol/drugs and driving situations.
- (B) Drug and alcohol driving awareness program content guides. A program content guide is a description of the content of the program and the techniques of instruction that will be used to present the program. For programs offered in languages other than English, the course provider shall provide, along with the documentation specified in clauses (i)-(ix), a copy of the student verification of course completion document and/or enrollment contract, student instructional materials, and post-program exam in the proposed language accompanied by a statement from a translator with current credentials from the American Translators Association or the National Association of Judicial Interpreters and Translators that the materials are the same in both English and the other language. In lieu of the credentials specified in this subparagraph, a translator's credentials shall be presented to the department for approval with the final determination based solely on the department's interpretation. To be approved, each course provider shall submit as part of the application a program content guide that includes the following:
- (i) a statement of the program's drug and alcohol driving awareness program goal and philosophy. The program must not in any way promote Responsible Use, Harm Reduction, or Risk Reduction philosophies when being presented to minors;
  - (ii) a statement of policies and administrative provisions related to instructor conduct, standards, and performance;
  - (iii) a statement of policies and administrative provisions related to student progress, attendance, makeup, and conduct. The following policies and administrative provisions shall be used by each school that offers the program and include the following requirements:
    - (I) progress standards that meet the requirements of subsection (a)(1)(F);
    - (II) appropriate standards to ascertain the attendance of students. All schools approved to use the program must use the same standards for documenting attendance to include the hours scheduled each day and each hour not attended;
    - (III) any period of absence for any portion of instruction will require that the student complete that portion of instruction. All make-up lessons must be equivalent in length and content to the instruction missed and taught by a licensed instructor; and
    - (IV) conditions for dismissal and conditions for reentry of those students dismissed for violating the conduct policy;
  - (iv) a statement of policy addressing entrance requirements and special conditions of students, such as the inability to read, language barriers, and other disabilities;
  - (v) a list of relevant instructional resources, such as textbooks, audio and visual media and other instructional materials, and equipment that will be used in the

program; and the furniture deemed necessary to accommodate the students in the program, such as tables, chairs, and other furnishings. The program shall include a minimum of 60 minutes of videos, including audio; however, the videos and other relevant instructional resources cannot be used in excess of 150 minutes of the 300 minutes of instruction. The resources may be included in a single list or may appear at the end of each instructional unit;

- (vi) a clear identification of the order in which the units of instruction will be presented, and for each student, the program shall be taught in the order identified in the approved application;
  - (vii) written or printed materials that shall be provided for use by each student as a guide to the program. The division director may make exceptions to this requirement on an individual basis;
  - (viii) units of instruction sufficient to present the topics identified in subsection (a)(1)(B) and any additional topics unique to the program. Each instructional unit shall include the following:
    - (I) the subject of the unit;
    - (II) the instructional objectives of the unit;
    - (III) time to be dedicated to the unit;
    - (IV) an outline of major concepts to be presented;
    - (V) instructional activities to be used to present the material (lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions, etc.). When small-group discussions are planned, the program guide shall identify the questions that will be assigned to the groups;
    - (VI) instructional resources for each unit; and
    - (VII) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the program content guide. The evaluative technique may be used throughout the unit or at the end; and
  - (ix) a document that identifies the instructional units and topics and the order in which they are provided.
- (C) Program and time management. Approved drug and alcohol driving awareness programs shall be presented in compliance with the following guidelines.
- (i) A minimum of 300 minutes of instruction is required.
  - (ii) The total length of the program shall consist of a minimum of 360 minutes.
  - (iii) Sixty minutes of time, exclusive of the 300 minutes of instruction, shall be dedicated to break periods or to the topics included in the minimum program content. All break periods shall be provided after instruction has begun and before the post-program exam.

- (iv) Programs conducted in a single day shall allow a minimum of 30 minutes for lunch.
  - (v) Programs taught over a period longer than one day shall provide breaks on a schedule equitable to those prescribed for one-day programs. However, all breaks shall be provided prior to the last unit of the instructional day or the post-program exam, whichever is appropriate.
  - (vi) The order of topics shall be approved by the department as part of the program approval, and for each student, the program shall be taught in the order identified in the approved application.
  - (vii) Students shall not receive a certificate of program completion unless that student received a grade of at least 70% on the post-program exam.
  - (viii) The program must not in any way promote Responsible Use, Harm Reduction, or Risk Reduction philosophies when provided to minors.
  - (ix) No more than 50 students per class are permitted in drug and alcohol driving awareness programs, unless the class size is limited by a restriction under another law or rule. In a traditional classroom setting, there must be sufficient seating for the number of students arranged so that all students are able to view, hear, and comprehend all instruction aids.
  - (x) The drug and alcohol driving awareness school shall make a material effort to establish the identity of the student.
- (D) Minimum program content. A drug and alcohol driving awareness program shall include, as a minimum, materials adequate to address the following topics and instructional objectives and the program as a whole.
- (i) Program administration. The objective is to enable the instructor to handle any basic in-class administrative details that are necessary prior to beginning instruction. This unit shall be limited to 15 minutes.
  - (ii) Program introduction, pre-program exam, and background. The objective is to present an overview of the program and to demonstrate the nature of the problem as it relates to the use of alcohol or other drugs.
  - (iii) Texas laws. The objective is to provide basic information about laws related to alcohol/drug use in Texas.
  - (iv) Physiological and psychological effects of alcohol/drugs. The objective is to provide basic information about the physiological and psychological effects of alcohol and other drugs on humans.
  - (v) Effects of alcohol/drugs on the driving task. The objective is to explain the relationship of alcohol and other drugs to driving task abilities.
  - (vi) Signs of a problem. The objective is to help participants recognize and understand the warning signs of a potential alcohol/drug problem.
  - (vii) Decision making. The objective is to help participants make quality decisions about alcohol/drug use that will prevent future problems.
  - (viii) Post-program exam.

- (E) Instructor training guides. An instructor training guide contains a description of the plan, training techniques, and curriculum to be used to train instructors to present the concepts of the approved drug and alcohol driving awareness program described in the applicant's drug and alcohol driving awareness program guide. Each course provider shall submit as part of the application an instructor training guide. The guide shall include a table of contents and the following:
- (i) a statement of the philosophy and instructional goals of the training program. The program must not in any way promote Responsible Use, Harm Reduction, or Risk Reduction philosophies when being presented to minors;
  - (ii) a description of the plan to be followed in training instructors. The plan shall include, as a minimum, provisions for the following:
    - (I) instruction of the trainee in the program curriculum;
    - (II) training the trainee in the techniques of instruction that will be used in the program;
    - (III) training the trainee about administrative procedures and course provider policies;
    - (IV) demonstration of desirable techniques of instruction by the instructor trainer;
    - (V) a minimum of 15 minutes of instruction of the program curriculum by the trainee under the observation of the instructor trainer as part of the basic training program; and
    - (VI) time to be dedicated to each training lesson; and
  - (iii) instructional units sufficient to address the provisions identified in clause (ii)(I)-(V). The total time of the units shall contain a minimum of 16 instructional hours. Each instructional unit shall include the following:
    - (I) the subject of the unit;
    - (II) the instructional objectives of the unit;
    - (III) time to be dedicated to the unit;
    - (IV) an outline of major concepts to be presented;
    - (V) instructional activities to be used to present the material (i.e., lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions). When small-group discussions are planned, the program guide shall identify the questions that will be assigned to the groups;
    - (VI) instructional resources for each unit; and
    - (VII) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the instructor training guide. The evaluative technique may be used

throughout the unit or at the end.

- (F) Exams. Each course provider shall submit for approval, as part of the application, pre- and post-program exams designed to measure the knowledge of students at the completion of the drug and alcohol driving awareness program. The post-program exam for each drug and alcohol driving awareness program must contain at least 20 questions. A minimum of 2 questions shall be drawn from the required units set forth in subparagraph (D)(iii)-(vii) of this paragraph. The post-program final exam questions shall be of such difficulty that the answer may not easily be determined without completing the actual instruction. Instructors shall not assist students in answering the post-program exam questions, but may facilitate alternative testing. Instructors may not certify or give students credit for the drug and alcohol driving awareness program unless they score 70% or more on the post-program exam. The program content guide shall identify alternative testing techniques to be used for students with reading, hearing, or learning disabilities and policies for retesting students who score less than 70% on the post-program exam. The course provider may choose not to provide alternative testing techniques; however, students shall be advised whether the course provides alternative testing prior to enrollment in the course. Exam questions may be short answer, multiple choice, essay, or a combination of these forms.

(2) Instructor development programs.

- (A) Drug and alcohol driving awareness program instructors shall successfully complete 24 clock hours (50 minutes of instruction in a 60-minute period) in the approved instructor development program for the drug and alcohol driving awareness program to be taught, under the supervision of a licensed drug and alcohol driving awareness instructor who is designated by the course provider. Supervision is considered to have occurred when the licensed instructor is present and personally provides the 24 clock hours of training for drug and alcohol driving awareness instructors, excluding clock hours approved by the department that may be presented by a guest speaker or using films and other media that pertain directly to the concepts being taught.
  - (B) Instruction records shall be maintained by the course provider and licensed instructor for each instructor trainee and shall be available for inspection by authorized division representatives at any time during the training period and/or for license investigation purposes. The instruction record shall include the trainee's name, address, driver's license number, and other pertinent data; the name and instructor license number of the person conducting the training; and the dates of instruction, lesson time, and subject taught during each instruction period. Each record shall also include unit, pre- and post-program exam grades or other means of indicating the trainee's aptitude and development. Upon satisfactory completion of the training program, the instructor trainer conducting the training will certify a copy of the instruction record for attachment to the trainee's application for licensing.
  - (C) The course provider shall sign all student instruction records submitted for the department-approved instructor development program. Original documents shall be submitted.
  - (D) Instructor development programs may be offered at approved classroom facilities of a licensed school which is approved to offer the drug and alcohol driving awareness program being taught. A properly licensed instructor shall present the program.
- (b) Schools applying for approval of additional drug and alcohol driving awareness programs after the original approval has been granted shall submit the documents designated by the division director with the appropriate fee. Programs shall be approved before soliciting students, advertising, or conducting classes. An approval for an additional program shall not be granted if the school's compliance is in question at the



time of application.

- (c) If an approved program is discontinued, the division director shall be notified within five working days of discontinuance. Any program discontinued shall be removed from the list of approved programs.
- (d) If, upon review and consideration of an original, renewal, or amended application for drug and alcohol driving awareness program approval, the department determines that the applicant does not meet the legal requirements, the commissioner shall notify the applicant, setting forth the reasons for denial in writing.
- (e) The department may revoke approval of any drug and alcohol driving awareness program given to a course provider or school under any of the following circumstances.
  - (1) A statement contained in the application for the program approval is found to be untrue.
  - (2) The school has failed to maintain the faculty, facilities, equipment, or programs of study on the basis of which approval was issued.
  - (3) The school and/or course provider has been found to be in violation of the Code, and/or this subchapter.
  - (4) The program has been found to be ineffective in carrying out the purpose of the Code.

**84.506. Drug and Alcohol Driving Awareness Programs Alternative Delivery Method.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) Approval process. The department may approve an alternative delivery method (ADM) that delivers an approved drug and alcohol driving awareness program and meets the following requirements.
  - (1) Standards for approval. The department may approve an ADM for an approved drug and alcohol driving awareness program and waive any rules to accomplish this approval if the ADM delivers an approved program in a manner that is at least as secure as a traditional classroom. ADMs that meet the requirements outlined in subsections (b)-(h), shall receive ADM approval.
  - (2) Application. The course provider shall submit a completed ADM application along with the appropriate fee. The application for ADM approval shall be treated the same as an application for the approval of a new program, and the ADM must deliver the course provider's approved curriculum as delineated in the program content guide required by §84.505(a)(1)(B) (relating to Drug and Alcohol Driving Awareness Programs of Instruction).
  - (3) Incomplete applications. An application that is incomplete may be returned to the applicant along with the application fee.
  - (4) School license required. A person or entity offering a drug and alcohol driving awareness program to Texas students by an ADM must hold a drug and alcohol driving awareness school license.
  - (5) Course provider endorsement required. The drug and alcohol driving awareness school must have an endorsement from a licensed course provider.
  - (6) Course provider responsibility. The day-to-day operations of an ADM are the responsibility of the course provider that owns the curriculum. A course provider may offer an ADM through a school that is not owned and operated by the course provider only with approval of the division director. By accepting such approval, the course provider that offers the curriculum through a licensed drug and alcohol and driving awareness school also accepts responsibility for all compliance issues that arise as a result of the operation of the ADM.
- (b) Program content. The ADM must deliver the same topics and program content as the approved course.

- (1) Course topics. The time requirements for each unit and the program as a whole described in §84.505(a)(1)(B)(v), (C), and (D) shall be met.
  - (2) Topic sequence. The ADM sequencing may be different from the approved traditional program as long as the sequencing does not detract from educational value of the program. The ADM owner shall provide a key showing the topic sequence of the traditional program and where the corresponding information appears in the ADM.
  - (3) Editing. The material presented in the ADM shall be edited for grammar, punctuation, and spelling and be of such quality that it does not detract from the subject matter.
  - (4) Irrelevant material. Advertisement of goods and services shall not appear during the actual instructional times of the program. Distracting material that is not related to the topic being presented shall not appear during the actual instructional times of the program.
  - (5) Minimum content. The ADM shall present sufficient content so that it would take a student 300 minutes to complete the program. In order to demonstrate that the ADM contains sufficient content, the ADM shall use the following methods.
    - (A) Word count. For written material that is read by the student, the course provider shall count the total number of words in the written sections of the program. This word count shall be divided by 180, the average number of words that a typical student reads per minute. The result is the time associated with the written material for the sections.
    - (B) Multimedia presentations. For multimedia presentation, the course provider shall calculate the total amount of time it takes for all multimedia presentations to play.
    - (C) Charts and graphs. The ADM may assign one minute for each chart or graph.
    - (D) Exams. The course provider may allocate up to 45 seconds for questions presented over the Internet and 30 seconds for questions presented by telephone.
    - (E) Total time calculation. If the sum of the time associated with the written program material, the total amount of time for all multimedia presentations, and the time associated with all charts and graphs equals or exceeds 300 minutes, the ADM has demonstrated the required amount of content.
    - (F) Alternate time calculation method. In lieu of the time calculation method, the ADM may submit alternate methodology to demonstrate that the ADM meets the 300-minute requirement.
  - (6) Student breaks. A program that demonstrates that it contains 300 minutes of instructional content shall mandate that students take 60 minutes of break time or provide additional educational content for a total of 360 minutes.
- (c) Personal validation. The ADM shall maintain a system to validate the identity of the person taking the program. The personal validation system shall incorporate the following requirements.
- (1) Personal validation questions. The ADM shall ask a minimum of 10 personal validation questions throughout the program.
  - (2) Data sources. The personal validation questions shall be drawn equally from at least two different databases. Alternatively, the data may be drawn from student-solicited question/answer pairs obtained during enrollment.

- (3) Time to respond. The student must correctly answer the personal validation question within 45 seconds for questions presented over the Internet and 30 seconds for questions presented by telephone.
  - (4) Placement of questions. At least one personal validation question shall appear in each major unit or section, not including the post-program exam.
  - (5) Exclusion from the course. The ADM shall exclude the student from the program after the student has incorrectly answered more than 20 percent of the personal validation questions.
  - (6) Correction of answer. The school may correct an answer to a personal validation question for a student who inadvertently missed a personal validation question drawn from a third-party database. In such a case, the student record shall include a record of both answers and an explanation of the reasons that the school corrected the answer. A school or course provider shall not correct or change an answer for a student who enrolls in an ADM that uses student-solicited question/answer pairs for personal validation.
  - (7) Student affidavits. A student enrolled in a program that uses third-party database validation questions and for whom third-party database information is available from fewer than two databases (for example, a student with an out-of-state driver's license) may be issued a certificate of program completion upon presentation to the course provider of a notarized copy of the student's driver's license or equivalent type of photo identification and a statement from the student certifying that the individual attended and successfully completed the six-hour drug and alcohol driving awareness program for which the certificate is being issued and for which there exists a corresponding student record.
  - (8) Alternative methods. Upon approval by the department the ADM may use alternate methods that are at least as secure as the personal validation question method.
- (d) Program validation. The ADM shall incorporate a program content validation process that verifies student participation and comprehension of program material, including the following.
- (1) Timers. The ADM shall include built-in timers to ensure that 300 minutes of instruction have been attended and completed by the student.
  - (2) Testing the student's participation in multimedia presentations. The ADM shall ask at least one program validation question following each multimedia clip of more than 60 seconds.
    - (A) Test bank. For each multimedia presentation that exceeds 60 seconds, the ADM shall have a test bank of at least four questions.
    - (B) Question difficulty. The question shall be short answer, multiple choice, essay, or a combination of these forms. The question shall be difficult enough that the answer may not be easily determined without having viewed the actual multimedia clip.
    - (C) Failure criteria. If the student fails to answer the question correctly, the ADM shall either require the student view the multimedia clip again or the ADM shall fail the student from the program. If the ADM requires the student to view the multimedia clip again, the ADM shall present a different question from its test bank for that multimedia clip. The ADM may not repeat a question until it has asked all the questions from its test bank.
    - (D) Answer identification. The ADM shall not identify the correct answer to the multimedia question.
  - (3) Mastery of program content. The ADM shall test the student's mastery of the program content by asking at least two questions from each of the five substantive topics listed in

§84.505(a)(1)(D)(iii)-(vii).

- (A) Test bank. The test bank for program content mastery questions shall include at least two questions from each of the five substantive topics identified in §84.505(a)(1)(D)(iii)-(vii). For each question in a substantive topic, the test bank shall contain four alternative questions covering the same topic, for a total of at least 100 questions.
  - (B) Placement of questions. The mastery of program content questions shall be asked at the end of the program (post-program exam).
  - (C) Question difficulty. Program content mastery questions shall be short answer, multiple choice, essay, or a combination of these forms, and of such difficulty that the answer may not be easily determined without having participated in the actual instruction.
  - (D) Retest. If the student misses more than 30 percent of the questions asked on the post-program exam, the ADM shall retest the student in the same manner as the failed exam, using different questions from its test bank. The student is not required to repeat the failed program, but may be allowed to do so prior to retaking the exam. If the student fails the post-program exam three times, the student shall fail the program.
- (e) Student records. The ADM shall provide for the creation and maintenance of the records documenting student enrollment, the verification of the student's identity, and the testing of the student's mastery of the program material. Each entry that verifies enrollment, identifies the question asked or the response given, documents retesting and/or revalidation, and documents any changes to the student's record shall include the date and time of the activity reported. The school and/or course provider shall also ensure that the student record is readily, securely, and reliably available for inspection by the department. The student records shall contain the following information:
- (1) the student's name and driver's license number;
  - (2) a record of which personal validation questions were asked and the student's responses;
  - (3) a record of which multimedia participation questions were asked and the student's responses;
  - (4) the name or identity number of the staff member entering comments, retesting, or revalidating the student;
  - (5) if any answer to a question is changed by the school or course provider for a student who inadvertently missed a third-party database question, the school or course provider shall maintain both answers and a reasonable explanation for the change. A school or course provider shall not correct or change an answer for a student who enrolls in an ADM that uses student-solicited question/answer pairs for personal validation;
  - (6) a record of the program content mastery questions asked and the answers given; and
  - (7) a record of the time the student spent in each unit of the ADM and the total instructional time the student spent in the program.
- (f) Additional requirements for Internet programs. Programs delivered via the Internet shall also comply with the following requirements.
- (1) Re-entry into the program. An ADM may allow the student re-entry into the program by username and password authentication or other means that are as secure as username and password authentication.
  - (2) Navigation. The student shall be able to logically navigate through the program. The student shall

be allowed to freely browse previously completed material.

- (3) Audio-visual standards. The video and audio shall be clear and, when applicable, the video and audio shall be synchronized.
  - (4) Video transcripts. If the ADM presents transcripts of a video presentation, the transcript shall be delivered concurrently with the video stream so that the transcript cannot be displayed if the video does not display on the student's computer.
  - (5) Domain names. Each school offering an ADM must offer that ADM from a single domain. The ADM may accept students that are redirected to the ADM's domain, as long as the student is redirected to a web page that clearly identifies the course provider and school offering the ADM before the student begins the registration process, supplies any information, or pays for the course. Subdomains of the ADM's single domain may also accept students as long as the subdomain is registered to and hosted by the ADM and clearly identifies the official course provider, school name, and the department registration number.
  - (6) ADM identification. All ADMs presented over the Internet shall display the school name and school number assigned by the department as well as the course provider name and course provider number assigned by the department on the homepage and the registration page of the entity to which the student pays any monies, provides any personal information, and in which the student enrolls.
- (g) Additional requirements for video programs.
- (1) Delivery of the material. For ADMs delivered by the use of videotape, digital video disc (DVD), film, or similar media, the equipment and program materials may only be made available through a process that is approved by the department.
  - (2) Video requirement. In order to meet the video requirement of §84.505(a)(1)(B)(v), the video course shall include between 60 and 150 minutes of video that is relevant to the required topics such as video produced by other entities for training purposes, including public safety announcements and B roll footage. The remainder of the 300 minutes of required instruction shall be video material that is relevant to one of the five substantive required topics and produced by the ADM owner, course owner, or course provider specifically for the ADM.
    - (A) A video ADM shall ask, at a minimum, at least one program validation question for each multimedia clip of more than 60 seconds at the end of each major segment (chapter) of the ADM.
    - (B) A video ADM shall devise and submit for approval a method for ensuring that a student correctly answers questions concerning the multimedia clips of more than 60 seconds presented during the ADM.
- (h) Standards for ADMs using new technology. For ADMs delivered using technologies that have not been previously reviewed and approved by the department, the department may apply similar standards as appropriate and may also require additional standards. These standards shall be designed to ensure that the program can be taught by the alternative method and that the alternative method includes testing and security measures that are at least as secure as the methods available in the traditional classroom setting.
- (i) Modifications to the ADM. Except as provided by paragraph (1), a change to a previously approved ADM shall not be made without the prior approval of the department. The licensed course provider for the approved program on which the ADM is based shall ensure that any modification to the ADM is implemented by all schools endorsed to offer the ADM.
- (1) A course provider may submit to the department a request for immediate implementation of a

proposed change that is insignificant or that protects the interest of the consumer such that immediate implementation is warranted. The request shall include:

- (A) a complete description of the proposed change;
  - (B) the reason for the change;
  - (C) the reason the requestor believes the proposed change is insignificant or protects the interest of the consumer such that immediate implementation is warranted; and
  - (D) an explanation of how the change will maintain the program or ADM in compliance with state law and the rules specified in this chapter.
- (2) The department may request additional information regarding a proposed change from the course provider making a request under paragraph (1).
- (3) The department will respond to any request made under paragraph (1), within five working days of receipt.
- (A) If the department determines that the proposed change is insignificant or protects the interest of the consumer such that immediate implementation is warranted the requestor may immediately implement the change. The licensed course provider for the approved program on which the ADM is based shall ensure that the change is implemented by all schools endorsed to offer the ADM.
  - (B) If the department determines that the proposed change is neither insignificant nor protects the interest of the consumer such that immediate implementation is warranted, the department shall notify the requestor of that determination and the change may not be made unless the department approves the change following a complete review.
- (4) A determination by the department to allow immediate implementation under paragraph (1), does not constitute final approval by the department of the change. The department reserves the right to conduct further review after the change is implemented and to grant or deny final approval based on whether the change complies with state law and rules specified in this chapter.
- (5) If, following further review, a change in an ADM that has been immediately implemented pursuant to paragraph (1), is determined not to be in compliance with state law and rules specified in this chapter, the department:
- (A) shall notify the course provider affected by the change of:
    - (i) the specific provisions of state law or rules with which the ADM change is not in compliance; and
    - (ii) a reasonable date by which the ADM must be brought into compliance;
  - (B) shall require the course provider to notify any school endorsed by the course provider of the finding;
  - (C) shall not, for the period between the implementation of the change and the date specified under subparagraph (A)(ii):
    - (i) seek any penalty relating to the non-compliance;
    - (ii) take any action to revoke or deny renewal of a license of a school or course provider based on the change; or

- (iii) withdraw approval of a program or ADM based on the change; and
- (D) is not required to specify the method or manner by which the course provider alters the ADM to come into compliance with state law and the rules in this chapter.
- (6) If the department allows immediate implementation pursuant to paragraph (1) and later determines that the description of the change or the request was misleading, materially inaccurate, not substantially complete, or not made in good faith, paragraph (5)(C) does not apply.
- (7) A course provider who immediately implements a change pursuant to paragraph (1) and fails to bring the ADM into compliance prior to the date allowed under paragraph (5)(A)(ii), may be determined to be in violation of state law or the rules in this chapter after that date.
- (8) A course provider that immediately implements a change under paragraph (1), assumes the risk of final approval being denied and of being required to come into compliance with state law and the rules in this chapter prior to the date allowed under paragraph (5)(A)(ii), including bearing the cost of reversing the change or otherwise modifying the ADM to come into compliance with state law and the rules in this chapter.
- (j) Termination of the school's operation. Upon termination, a school shall deliver any missing student data to the department within five days of termination.
- (k) Renewal of ADM approval. The ADM approval must be renewed every two years. The renewal document due date shall be March 1, 2012, and every two years thereafter.
  - (1) For approval, the course provider shall:
    - (A) update all the statistical data and references to law with the latest available data; and
    - (B) submit a statement of assurance saying that the ADM has been updated to reflect the latest applicable laws and statistics.
  - (2) Failure to make necessary changes or to submit a statement of assurance documenting those changes shall be cause for revocation of the ADM approval.
  - (3) The commissioner may alter the due date of the renewal documents by giving the approved ADM six months' notice. The commissioner may alter the due date in order to ensure that the ADM is updated six months after the effective date of new state laws passed by the Texas Legislature.
- (l) Access to instructor. With the exception of circumstances beyond the control of the school, the student shall have adequate access (on the average, within two minutes) to both a licensed instructor and telephonic technical assistance (help desk) throughout the program such that the flow of instructional information is not delayed.

#### **Subchapter N. Program of Instruction for Public Schools, Education Service Centers, and Colleges or Universities Course Requirements.**

**84.600. Program of Organized Instruction.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400; amended effective March 15, 2018, 43 TexReg 1431; amended effective July 1, 2018, 43 TexReg 3875)*

- (a) To be approved under this subchapter, a driver education plan shall include one or more of the following course programs.
  - (1) Core program. This program shall consist of at least 32 hours of classroom instruction; 7 hours of behind-the-wheel instruction in the presence of a certified instructor; 7 hours of in-car observation

in the presence of a certified instructor; and 30 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, verified by a parent or guardian in the presence of an adult who meets the requirements of Texas Transportation Code, §521.222(d)(2). Under this plan, a student may receive only local credit for the course.

- (2) In-car only program. This program shall consist of at least 7 hours of behind-the-wheel instruction in the presence of a certified instructor; 7 hours of in-car observation in the presence of a certified instructor; and 30 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, verified by a parent or guardian in the presence of an adult who meets the requirements of Texas Transportation Code, §521.222(d)(2). Under this plan, a student may receive only local credit for the course.
  - (3) Classroom only program. This program shall consist of at least 32 hours of classroom instruction. Under this plan, a student may receive only local credit for the course.
  - (4) School day credit program. This program shall consist of at least one class period per scheduled day of school, for a semester (traditional, condensed, accelerated, block, etc.), covering the driver education classroom and in-car program of organized instruction or only the classroom program of organized instruction. This class traditionally consists of at least 56 hours of driver education classroom instruction and, if in-car instruction is provided, must include 7 hours of behind-the-wheel instruction in the presence of a certified instructor; 7 hours of in-car observation in the presence of a certified instructor; and 30 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, verified by a parent or guardian in the presence of an adult who meets the requirements of Texas Transportation Code, §521.222(d)(2). Under this plan, a student may receive one-half unit of state credit toward graduation.
  - (5) Non-school day credit program. This program shall consist of at least 56 hours of driver education classroom instruction, and, if in-car instruction is provided, must include 7 hours of behind-the-wheel instruction in the presence of a certified instructor; 7 hours of in-car observation in the presence of a certified instructor; and 30 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, verified by a parent or guardian in the presence of an adult who meets the requirements of Texas Transportation Code, §521.222(d)(2). Under this plan, a student may receive one-half unit of state credit toward graduation.
  - (6) Multi-phase school day or non-school day credit program. This program shall consist of at least 40 hours of driver education classroom instruction; 4 hours of behind-the-wheel instruction in the presence of a certified instructor; 8 hours of in-car observation in the presence of a certified instructor; 12 hours of simulator instruction in the presence of a certified instructor; and 30 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, verified by a parent or guardian in the presence of an adult who meets the requirements of Texas Transportation Code, §521.222(d)(2). Under this plan, a student may receive one-half unit of state credit toward graduation.
- (b) The minimum requirements of the driver education program must be met regardless of how the course is scheduled. The following applies to all minor and adult driver education programs.
- (1) Driver education programs may be scheduled in block or concurrent form.
    - (A) Block form is when the classroom phase is taught as a separate, complete unit before the in-car phase begins.
    - (B) Concurrent form is when the classroom and the in-car phases are taught simultaneously or on alternating days.
  - (2) Instruction may be scheduled any day of the week, during regular school hours, before or after school, and during the summer.



- (3) Instruction shall not be scheduled before 5:00 a.m. or after 11:00 p.m. The superintendent, college or university chief school official, or education service center (ESC) director may approve exceptions to the scheduled hours of instruction and must include acceptance in writing of the exception by the parents or legal guardians for each of the students involved.
  - (4) The driver education classroom phase must have uniform beginning and ending dates. Students shall proceed in a uniform sequence. Students shall be enrolled and in class before the 7th hour of classroom instruction in a 32-hour program and the 12th hour of classroom instruction in 56-hour or semester-length programs.
  - (5) Self-study assignments occurring during regularly scheduled class periods shall not exceed 25% of the course and shall be presented to the entire class simultaneously.
  - (6) The driver education course shall be completed within the timelines established by the superintendent, college or university chief school official, or ESC director. This shall not circumvent attendance or progress. Variances to the established timelines shall be determined by the superintendent, college or university chief school official, or ESC director and must be agreed to by the parent or legal guardian.
  - (7) Schools are allowed five minutes of break within each instructional hour in all phases of instruction. A break is an interruption in a course of instruction occurring after the lesson introduction and before the lesson summation. It is recommended that the five minutes of break be provided outside the time devoted to behind-the-wheel instruction so students receive a total of seven hours of instruction.
  - (8) A student shall not receive credit for more than four hours of driver education training at a school in one calendar day no matter what combination of training is provided, excluding makeup. Further, for each calendar day, a student shall be limited to a maximum of:
    - (A) two hours of classroom instruction;
    - (B) four hours of observation time;
    - (C) two hours of multicar range driving;
    - (D) three hours of simulation instruction; and
    - (E) one hour of behind-the-wheel instruction.
  - (9) Driver education training verified by the parent is limited to one hour per day.
- (c) Course content, minimum instruction requirements, and administrative guidelines for each phase of driver education classroom instruction, in-car training (behind-the-wheel and observation), simulation, and multicar range shall include the instructional objectives established by the commissioner of education, as specified in this subsection, and meet the requirements of this subchapter. Sample instructional modules may be obtained from the department. Schools may use sample instructional modules developed by the department or develop their own instructional modules based on the approved instructional objectives. The instructional objectives are organized into the modules outlined in this subsection and include objectives for classroom and in-car training (behind-the-wheel and observation), simulation lessons, parental involvement activities, and evaluation techniques. In addition, the instructional objectives that must be provided to every student enrolled in a minor and adult driver education course include information relating to litter prevention; anatomical gifts; distractions, including the use of a wireless communication device that includes texting; motorcycle awareness; alcohol awareness and the effect of alcohol on the effective operation of a motor vehicle; and recreational water safety. A student may apply to the Texas Department of Public Safety (DPS) for an instruction permit after completing six hours of instruction as specified in

Module One if the student is taking the course in a concurrent program. The minor and adult driver education program instructional objectives shall include:

- (1) Module One: Traffic Laws. The student legally and responsibly performs reduced-risk driving practices in the Highway Transportation System (HTS) by:
  - (A) accepting driving as a privilege with responsibilities, obligations, and potential consequences; and
  - (B) applying knowledge and understanding of Texas traffic laws, including traffic control devices, right-of-way laws and law enforcement procedures for traffic stops in accordance with the provisions of the Community Safety Education Act (Senate Bill 30, 85<sup>th</sup> Regular Legislature).
- (2) Module Two: Driver Preparation. The student legally and responsibly performs reduced-risk driving practices in the HTS by:
  - (A) employing pre-drive tasks;
  - (B) using and requiring passengers to use occupant protection and restraint systems, including the proper use of child passenger safety seat systems;
  - (C) using vehicle symbols and devices;
  - (D) employing starting tasks;
  - (E) performing vehicle operation and control tasks;
  - (F) employing post-drive tasks;
  - (G) using baseline and progress assessment tools to evaluate and improve behind-the-wheel skill level; and
  - (H) formulating a driving plan.
- (3) Module Three: Vehicle Movements. The student legally and responsibly performs reduced-risk driving practices in the HTS by:
  - (A) sustaining visual attention and communication;
  - (B) using reference points;
  - (C) managing vehicle balance; and
  - (D) executing vehicle maneuvers.
- (4) Module Four: Driver Readiness. The student legally and responsibly performs reduced-risk driving practices in the HTS by:
  - (A) employing legal and responsible driving practices; and
  - (B) limiting and managing fatigue and aggressive driving.
- (5) Module Five: Risk Management. The student legally and responsibly performs reduced-risk driving practices in the HTS by:

- (A) predicting, analyzing, and minimizing risk factors, including the dangers of failing to yield the right-of-way to a motorcyclist and the need to share the road with motorcycles; and
  - (B) employing a space management system.
- (6) Module Six: Environmental Factors. The student legally and responsibly performs reduced-risk driving practices in the HTS by:
  - (A) identifying and analyzing driving environments; and
  - (B) minimizing environmental risk.
- (7) Module Seven: Distractions. The student legally and responsibly performs reduced-risk driving practices in the HTS by limiting and managing distractions, including the use of a wireless communication device that includes texting, and multi-task performances.
- (8) Module Eight: Alcohol and Other Drugs. The student legally and responsibly performs reduced-risk driving practices in the HTS by adopting zero-tolerance practices related to the use of alcohol and other drugs by applying knowledge and understanding of alcohol and other drug laws, regulations, penalties, and consequences to licensing, driving, and lifestyles.
- (9) Module Nine: Adverse Conditions. The student legally and responsibly performs reduced-risk driving practices in the HTS by managing adverse conditions resulting from weather, reduced-visibility, traction loss, and emergencies.
- (10) Module Ten: Vehicle Requirements. The student legally and responsibly performs reduced-risk driving practices in the HTS by:
  - (A) assessing and managing vehicle malfunctions;
  - (B) performing preventative maintenance; and
  - (C) planning trips.
- (11) Module Eleven: Consumer Responsibilities. The student legally and responsibly performs reduced-risk driving practices in the HTS by:
  - (A) attending to the vehicle requirements by making wise consumer decisions regarding vehicle use and ownership;
  - (B) vehicle insurance;
  - (C) environmental protection and litter prevention;
  - (D) anatomical gifts; and
  - (E) recreational water safety.
- (12) Module Twelve: Personal Responsibilities. The student legally and responsibly performs reduced-risk driving practices in the HTS by:
  - (A) using the knowledge, skills, and experiences of the Driver Education and Traffic Safety Program;
  - (B) obtaining and using a driver license; and

- (C) continuing the lifelong learning process of reduced-risk driving practices.
- (d) A school may use multimedia systems, simulators, and multicar driving ranges for instruction in a driver education program.
- (e) Each simulator, including the filmed instructional programs, and each plan for a multicar driving range must meet state specifications developed by the DPS and the department. Simulators are electromechanical equipment that provides for teacher evaluation of perceptual, judgmental, and decision-making performance of individuals and groups. With simulation, group learning experiences permit students to operate vehicular controls in response to audiovisual depiction of traffic environments and driving emergencies. The specifications are available from the department.
- (f) A minimum of 4 periods of at least 55 minutes per hour of instruction in a simulator may be substituted for 1 hour of behind-the-wheel and 1 hour observation instruction. A minimum of 2 periods of at least 55 minutes per hour of multicar driving range instruction may be substituted for 1 hour of behind-the-wheel and 1 hour observation instruction relating to elementary or city driving lessons. However, a minimum of four hours must be devoted to behind-the-wheel instruction and a minimum of four hours must be devoted to observation instruction.
- (g) A school may not permit more than 36 students per driver education class, excluding makeup students.
- (h) All behind-the-wheel lessons shall consist of actual driving instruction. Observation of the instructor, mechanical demonstrations, etc., shall not be counted for behind-the-wheel instruction. The instructor shall be in the vehicle with the student the entire time behind-the-wheel instruction is provided.
- (i) Minor and adult driver education programs shall include the following components.
  - (1) Driver education instruction is limited to eligible students between the ages of 14-18 years of age, who are at least 14 years of age when the driver education classroom phase begins and who will be 15 years of age or older when the behind-the-wheel instruction begins. Students officially enrolled in school who are 18-21 years of age may attend a minor and adult driver education program.
  - (2) Motion picture films, slides, videos, tape recordings, and other media that present concepts outlined in the instructional objectives may be used as part of the required instructional hours of the classroom instruction. Units scheduled to be instructed may also be conducted by guest speakers as part of the required hours of instruction. Together, these shall not exceed 640 minutes of the total classroom phase.
  - (3) Each classroom student shall be provided a driver education textbook or driver education instructional materials approved by the department.
  - (4) A copy of the current edition of the "Texas Driver Handbook" published by DPS shall be furnished to each student enrolled in the classroom phase of the driver education course.
  - (5) No school should permit a ratio of less than two, or more than four, students per instructor for behind-the-wheel instruction, except behind-the-wheel instruction may be provided for only one student when it is not practical to instruct more than one student, for makeup lessons, or if a hardship would result if scheduled instruction is not provided. In each case when only one student is instructed:
    - (A) the school shall obtain a waiver signed and dated by the parent or legal guardian of the student and the chief school official stating that the parent or legal guardian understands that the student may be provided behind-the-wheel instruction on a one-on-one basis with only the instructor and student present in the vehicle during instruction;

- (B) the waiver may be provided for any number of lessons; however, the waiver shall specify the exact number of lessons for which the parent is providing the waiver; and
  - (C) the waiver shall be signed before the first lesson in which the parent is granting permission for the student to receive one-on-one instruction.
- (j) Courses offered to adult persons who are 18 years of age or older shall only be offered by colleges and universities. Colleges and universities that offer driver education to adults shall submit and receive written approval for the course from the department prior to implementation of the program. The request for approval must include a syllabus, list of instructors, samples of instructional records that will be used with the course, and information necessary for approval of the program.

**84.601. Procedures for Student Certification and Transfers.** *(New Section adopted effective April 1, 2017, 42 TexReg 1400)*

- (a) The department shall be responsible for providing the driver education certificate (Form DE-964E) to public schools, education service centers (ESCs), and colleges or universities exempt from Chapter 1101, Education Code. The department shall also provide the DE-964E certificate to the Texas Department of Public Safety (DPS) for driver education programs approved by DPS. On this form, the driver education instructor and the superintendent, college or university chief school official, ESC director, DPS director, or their designee must certify that the driver education course was conducted according to the department and DPS education standards for an approved course in driver education for Texas schools.
  - (1) For schools exempt from the Chapter 1001, Education Code, and programs approved by DPS, the DE-964E certificate shall consist of five parts to be designated as follows: Texas Department of Public Safety Copies (Instruction Permit and Driver's License), Insurance Copy, Texas Department of Licensing and Regulation Copy, and School Copy. The DE-964E certificate is used to certify completion of an approved driver education course and is a government record.
  - (2) The department shall charge a fee of \$1.00 for each DE-964E certificate provided.
  - (3) The DE-964E certificates shall be issued to the superintendent, college or university chief school official, ESC director, or individuals designated by the superintendent, college or university chief school official, or ESC director to be responsible for managing the certificates for the school. This does not remove the superintendent, college or university chief school official, or ESC director from obligations pursuant to this subchapter to oversee the program. The DPS shall be responsible for the DE-964E certificates provided to DPS-approved driver education programs.
  - (4) Unused DE-964Es shall not be transferred to another school without written approval by the department.
  - (5) The DE-964E document is a government record as defined under Texas Penal Code, §37.01(2). Any misrepresentation by the applicant or person issuing the form as to the prerequisite set forth may result in suspension or revocation of instructor credentials or program approval and/or criminal prosecution.
  - (6) The superintendent, college or university chief school official, ESC director, or their designee may request to receive serially numbered DE-964E certificates for exempt schools and programs approved by DPS by submitting a completed order on the form provided by the department stating the number of certificates to be purchased and including payment of all appropriate fees. The department will accept purchase requisitions from school districts.
  - (7) The superintendent, college or university chief school official, ESC director, or their designee shall be responsible for accounting for each DE-964E certificate he or she has been issued. All DE-964E certificates and records of certificates shall be maintained in an orderly fashion.

- (8) The DPS shall accept only the original signature of a certified driver education teacher. The signature of the chief school official or ESC director may be written, stamped, or omitted.
- (9) All DE-964E certificates and records of certificates must be provided to the department or DPS upon request. The superintendent, college or university chief school official, ESC director, or their designee shall maintain the school copies of the certificates and submit the department copies of all issued certificates to the department no later than February 15, June 15, and September 15 of each year. The chief school official, ESC or DPS director, or their designee shall return unissued DE-964E certificates to the department within 30 days from the date the school discontinues the driver education program, unless otherwise notified.
- (10) Each superintendent, college or university chief school official, ESC director, or their designee shall ensure that the policies concerning DE-964E certificates are followed by all individuals who have responsibility for the certificates.
- (11) The superintendent, college or university chief school official, ESC director, or their designee shall maintain effective protective measures to ensure that unissued DE-964E certificates and records of certificates are secure.
- (12) The superintendent, college or university chief school official, ESC director, or their designee shall report any incident of unaccounted DE-964E certificates to the department immediately upon discovering the incident. If such an incident occurs, the superintendent, college or university chief school official, ESC director, or their designee shall conduct an investigation to determine the circumstances of the unaccounted certificates. A report of the findings of the investigation, including measures taken to prevent the incident from recurring, shall be submitted to the department within 30 days of the discovery.
- (13) The superintendent, college or university chief school official, or ESC director must insure that employees complete, issue, or validate a DE-964E only to a person who has successfully completed the entire portion of the course for which the DE-964E is being used. The DPS must insure that the participants of the home taught driver education programs complete, issue, or validate a DE-964E only to a person who has successfully completed the entire portion of the course for which the DE-964E is being used. Issuance of the DE-964E is the assurance that the student has successfully achieved mastery of the course objectives.
- (14) The right to receive DE-964E certificates may be immediately suspended for a period determined by the department if:
  - (A) a department investigation is in progress and the department has reasonable cause to believe the certificates have been misused or abused or that adequate security was not provided; or
  - (B) the superintendent, college or university chief school official, ESC director, or their designee fails to provide information on records requested by the department or DPS within the allotted time.
- (15) The DPS copy of a DE-964E certificate must contain the original signature of the certified instructor. The name of the superintendent, college or university chief school official, ESC director, or their designee may be written, stamped, typed, or omitted.
- (16) The superintendent, college or university chief school official, ESC director, or their designee may issue a duplicate DE-964E certificate to a student who completed a course under the responsibility of the superintendent, college or university chief school official, ESC director, or their designee. The duplicate shall indicate the control number of the original DE-964E certificate.

- (b) An authorized DPS employee shall accept a DE-964E certificate when a certified driver education instructor certifies by signing the DE-964E that the driver education program was completed according to this subchapter and that the student has achieved the competencies specified in this subchapter. The school official shall make a copy of the teacher's certificate for driver education available to authorized department or DPS representatives when requested.
- (c) The superintendent, college or university chief school official, or ESC director may designate one certified driver education teacher to sign the DE-964E certificates for that school. In a concurrent program, only one teacher shall be required to sign a DE-964E certificate, but each teacher giving instruction in the concurrent program must be a fully certified driver education teacher or state-approved teaching assistant and must initial for each lesson they instruct. In each case, the teacher signing the DE-964E certificate must compile all records and verify the student's successful completion.
- (d) The department shall accept any part of the driver education instruction received by a student in another state; however, the student must complete all of the course requirements for a Texas driver education program. Driver education instruction completed in another state must be certified in writing by the chief official or course instructor of the school where the instruction was given and include the hours and minutes of instruction and a complete description of each lesson provided. The certification document must be attached to the student's individual record at the Texas school and be maintained with the record for seven years.
- (e) Students who are licensed in another state and have completed that state's driver education program should contact the DPS for information on the licensing reciprocal agreement between that state and Texas.
- (f) When it is impossible or inconvenient for the certified driver education instructor to sign the DE-964E (due to transfer, illness, or death, etc.), the superintendent, college or university chief school official, ESC director, or their designee may, by completing the driver education affidavit form on the reverse side of the DE-964E certificate, certify that official records show a particular student completed an approved driver education course as indicated on the DE-964E.
- (g) All records of instruction shall be included as part of the student's final history when it is necessary to compile multiple records to verify that a student successfully completed a driver education course.
- (h) A student may receive credit for course hours completed if there was a violation of this subchapter or before a teacher's endorsement was suspended provided the violation or suspension was not for an infraction that would conclusively establish the course as inadequate.